

# **LEGISLATIVE JOURNAL OF THE STATE OF NEBRASKA**

**EIGHTY-FIFTH LEGISLATURE  
FIRST SPECIAL SESSION**

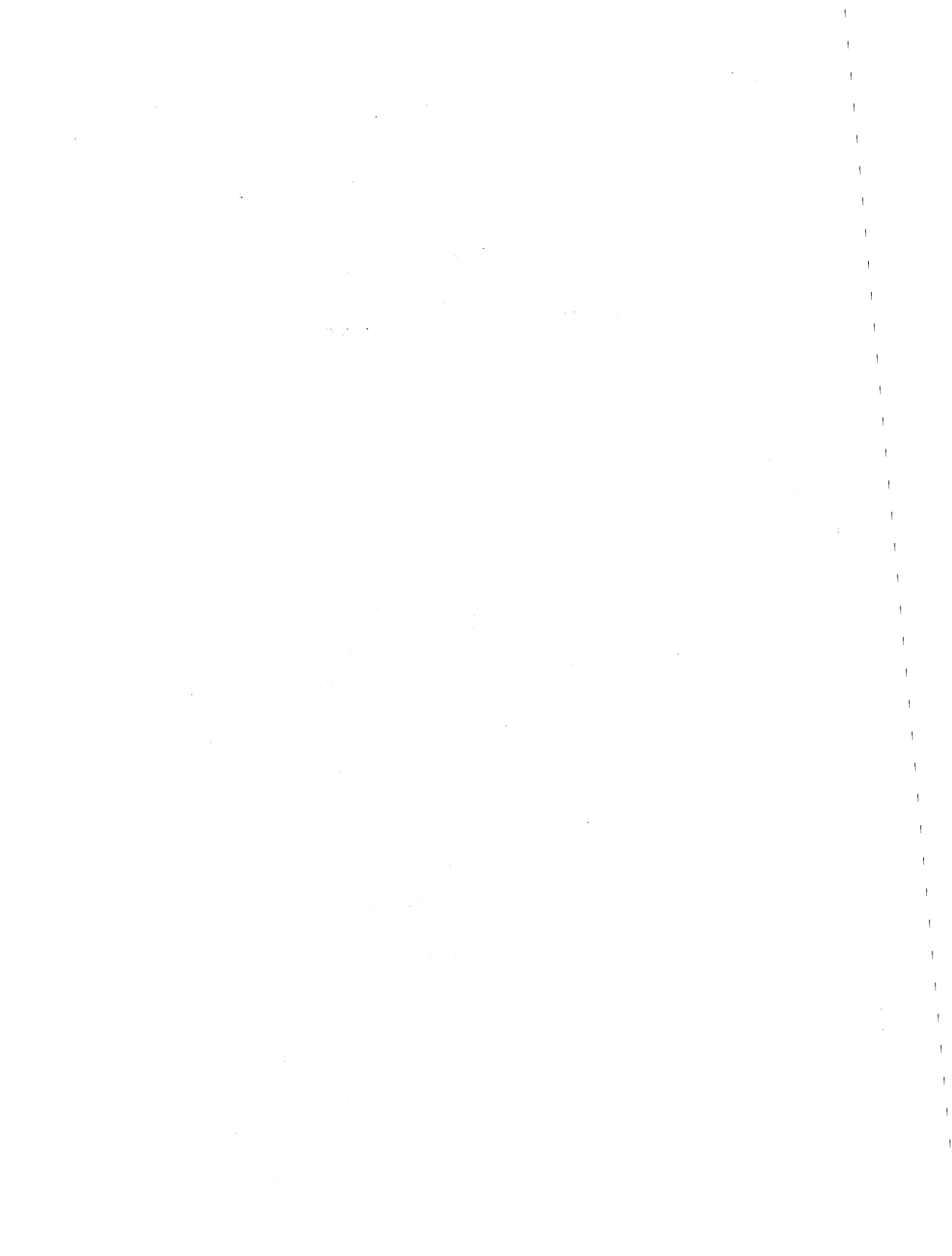
**Convened June 8, 1978**

**Adjourned June 30, 1978**

**LINCOLN, NEBRASKA**

**Compiled  
Under Authority of the Legislature  
by  
Patrick J. O'Donnell, Clerk**

**03-01-58-78**



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Mary Knospfl, Bryanne L. Smith	KUON-TV—Nebraska
	ETV Network
Walt Dean, Ray Depa	WOWT

## LEGISLATURE

### MEMBERS

Dist.	Name	Address	Occupation	Counties
1	Nelson Merz	Falls City	Businessman	Gage, Nemaha, Pawnee Richardson
2	Calvin F. Carsten	Avoca	Farmer	Cass, Johnson, Otoe
3	Orval A. Keyes	Springfield	Farmer	Sarpy
4	Larry D. Stoney	Omaha	Insurance	Douglas
5	Bernice Labedz	Omaha	Businesswoman	Douglas
6	Harold T. Moylan	Omaha	Real Estate Broker	Douglas
7	Patrick L. Venditte	Omaha	Education	Douglas
8	Edwin V. Dvorak	Omaha	Accountant	Douglas
9	Bill Brennan	Omaha	Labor Official	Douglas
10	John S. Savage	Omaha	Public Relations	Douglas
11	Ernest Chambers	Omaha	Barber	Douglas
12	Gerald D. Koch	Ralston	Educator	Douglas
13	David R. Newell	Omaha	Graduate Student	Douglas
14	Tom Fitzgerald	Omaha	Retired - Post Office	Douglas
15	Barry Reutzel	Fremont	Field Office Mgr.	Dodge
16	Walter George	Blair	Agricultural Exports	Burt, Cuming, Thurston, Washington
17	John R. Murphy	So. Sioux City	Plumbing, Banking, Farming.	Dakota, Dixon, Wayne
18	W. H. Hasebroock	West Point	Merchant	Colfax, Cuming, Dodge, Stanton
19	Elroy M. Hefner	Coleridge	Agri-Businessman	Cedar, Knox, Pierce, Wayne
20	Glenn A. Goodrich	Omaha	Real Estate	Douglas
21	Thomas C. Kennedy	Newman Grove	Farmer	Madison, Pierce

## MEMBERS

Dist.	Name	Address	Occupation	Counties
22	Donald N. Dworak . . . . .	Columbus . . . . .	Businessman . . . . .	Boone, Nance, Platte
23	Loran Schmit . . . . .	Bellwood . . . . .	Farmer, Helicopter Pilot . . . . .	Butler, Platte, Polk, Saunders
24	Douglas K. Bereuter . . . . .	Utica . . . . .	Development Consultant . . . . .	Polk, Seward, York
25	Jerome Warner . . . . .	Waverly . . . . .	Livestock, Farming . . . . .	Cass, Johnson, Lancaster, Otoe, Saunders
26	L. K. Emry . . . . .	Lincoln . . . . .	Retired-Railroad . . . . .	Lancaster
27	Steve Fowler . . . . .	Lincoln . . . . .	State Senator . . . . .	Lancaster
28	Roland A. Luedtke . . . . .	Lincoln . . . . .	Lawyer . . . . .	Lancaster
29	Shirley Marsh . . . . .	Lincoln . . . . .	Homemaker . . . . .	Lancaster
30	George W. Burrows . . . . .	Adams . . . . .	Farmer . . . . .	Gage, Jefferson, Saline
31	Neil Simon . . . . .	Omaha . . . . .	Director-Sales . . . . .	Douglas
32	Richard Maresh . . . . .	Milligan . . . . .	Farmer . . . . .	Fillmore, Jefferson, Saline, Thayer
33	Richard D. Marvel . . . . .	Hastings . . . . .	Educator . . . . .	Adams
34	Maurice A. Kremer . . . . .	Aurora . . . . .	Farmer & Businessman . . . . .	Clay, Hamilton, Merrick, Nuckolls, Polk
35	Ralph D. Kelly . . . . .	Grand Island . . . . .	Businessman . . . . .	Hall
36	Ron Cope . . . . .	Kearney . . . . .	Business-Farming . . . . .	Buffalo, Hall
37	Martin F. Kahle . . . . .	Kearney . . . . .	Farmer-Stockman . . . . .	Buffalo, Franklin, Kearney, Nuckolls, Webster
38	Richard Lewis . . . . .	Holbrook . . . . .	Stockman . . . . .	Frontier, Furnas, Gosper, Harlan, Hayes, Red Willow
39	Herbert J. Duis . . . . .	Gothenburg . . . . .	Real Estate, Insurance . . . . .	Buffalo, Dawson, Phelps
40	John W. DeCamp . . . . .	Neligh . . . . .	Attorney . . . . .	Antelope, Boone, Boyd, Holt

## MEMBERS

Dist.	Name	Address	Occupation	Counties
41	Dennis L. Rasmussen	Scotia	Farmer	Custer, Garfield, Greeley, Hall, Howard, Loup, Sherman, Valley, Wheeler
42	Myron Rumery	North Platte	Retired	Custer, Lincoln
43	Howard Lamb	Anselmo	Farmer-Rancher	Blaine, Brown, Cherry Custer, Hooker, Keya Paha, Logan, McPherson, Rock, Thomas
44	Jack D. Mills	Big Springs	State Senator	Arthur, Chase, Deuel, Dundy, Garden, Hayes, Hitchcock, Keith, Perkins
45	Frank Lewis	Bellevue	Public Relations-Consultant	Sarpy
46	Jo Ann Maxey	Lincoln	Homemaker	Lancaster
47	Robert L. Clark	Sidney	Merchant	Banner, Cheyenne, Kimball, Morrill, Scotts Bluff
48	William E. Nichol	Scottsbluff	Businessman	Scotts Bluff
49	Samuel K. Cullan	Hemingford	Farmer	Box Butte, Dawes, Sheridan, Sioux, Grant

## Clerk

Patrick J. O'Donnell . . . . . Lincoln

# **RULES OF THE NEBRASKA UNICAMERAL**

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# **RULE 1—OFFICERS AND EMPLOYEES**

## **A. Election of Officers**

**Section 1. Officers To Be Elected.** At the commencement of each regular session in odd-numbered years the Legislature shall nominate from the floor and elect by secret ballot the following officers:

Speaker  
Chairman of Committee on Committees  
Chairman of Executive Board  
Vice-Chairman of Executive Board  
6 Members of Executive Board (See footnote)

Before the ballot is taken each person so nominated may make a public statement to the Legislature indicating what the Legislature may expect from him or her in the area of the responsibility of such office. The officers so elected shall hold such office for a period of two years.

*The Legislature elects two from legislative districts Nos. 1, 2, 15, 16, 23 through 30, 32 through 35, and 46; two from legislative districts Nos. 3 through 14, 20, 31, and 45; and two from legislative districts Nos. 17 through 19, 21, 22, 36 through 44, and 47 through 49. Speaker is member of Board; Chairman of Appropriations is nonvoting member; RRS 50-401.01.*

**Sec. 2. Officers To Be Approved.** In addition, the Legislature shall advise and consent to the recommendations of the Executive Board of the Legislative Council for the following officers:

Chief Clerk of the Legislature  
Assistant Clerk of the Legislature  
Sergeant at Arms  
Chaplain

*Officers and employees recommended by the Executive Board, RRS 50-111.*

**Sec. 3. Voting on and Removal of Officers.** (a) A majority vote of the elected members shall be required for the election of all officers of the Legislature. All officers shall hold their office until a successor is chosen or they are removed.

## **RULE 1**

(b) Any officer of the Legislature may be recalled upon a two-thirds majority vote of the members elected to the Legislature provided no such recall shall be voted on until five legislative days after the motion to do so is placed in the Journal. The vacancy thus created shall be filled by a majority vote of the members.

**Sec. 4. Officer's Oath.** Each permanent officer shall take an oath to support the Constitution of the United States, and the Constitution of the State of Nebraska, and to discharge faithfully the duties of his office according to the best of his ability.

### **B. Presiding Officer**

**Sec. 5. President of Legislature.** The Lieutenant Governor shall preside as President of the Legislature. The Speaker shall serve as acting President and preside when the Lieutenant Governor shall be absent, incapacitated, or shall be acting as Governor. All references herein made to the President shall be construed as meaning also the Speaker whenever he may preside.

*Prohibited from presiding when acting as Governor. Const. Art. III, Sec. 10.*

*Duties and powers. RRS 50-113.*

**Sec. 6. Presiding Officer, Order in Designating.** In the absence of both the Lieutenant Governor and the Speaker, the order of the presiding officer of the Legislature shall be as follows:

Chairman of the Legislative Council  
Chairman of the Committee on Committees  
Chairman of Committee on Judiciary  
Chairman of Committee on Government, Military and  
Veterans Affairs  
Chairman of Committee on Appropriations  
Chairman of Committee on Revenue  
Chairman of Committee on Education  
Chairman of Committee on Banking, Commerce and  
Insurance  
Chairman of Committee on Public Works  
Chairman of Committee on Agriculture and Environment  
Chairman of Committee on Public Health and Welfare  
Chairman of Committee on Miscellaneous Subjects  
Chairman of Committee on Business and Labor  
(Cont.)

## RULE 1

### Chairman of Committee on Urban Affairs Chairman of Committee on Constitutional Revision and Recreation

#### *Emergency Succession RRS 50-503 (7)*

**Sec. 7. Powers of Presiding Officer, Restrictions.** All the powers herein conferred on the President shall be exercised by the presiding officer, except the authority to sign bills or resolutions passed by the Legislature.

*Const. Art. III, Sec. 14.*

*Addressing the Chair. Rule 2, Sec. 7.*

*Duties RRS 50-113.*

**Sec. 8. Alternate Presiding Officers.** The President may name any member to perform the duties of the presiding officer, but such delegation shall not extend beyond adjournment. When possible the order for delegation of the presiding officer shall be as set forth in Sec. 6, supra.

**Sec. 9. Convening of Legislature, Quorum.** The President shall take the chair each legislative day at the hour to which the Legislature shall have adjourned at the last sitting. He shall call the Legislature to order, and a quorum being present, shall proceed in the manner and order prescribed by these rules. A majority of the members elected to the Legislature shall constitute a quorum.

*Const. Art. III, Sec. 10.*

**Sec. 10. Absence of Quorum.** If the President finds that a number less than a quorum is present, he shall so state, and a majority of the members present, if five in number, may compel the presence of all members subject to a Call of the Legislature.

**Sec. 11. Order and Decorum.** The President shall preserve order and decorum, and in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

*Consent to enter Chamber. Rule 2, Sec. 3.*

**Sec. 12. President Decide Order of Speaking.** The President may speak to a point of order in preference to members, and shall decide the questions or order, subject to a challenge to the Legislature by any member, on which challenge no member may speak more than once, unless by leave of the Legislature. In the event of a challenge to a ruling of the Chair, the ruling shall be restated and the question shall be phrased: "Shall the chair be overruled?". A majority of those present shall be required to overrule the Chair.

## **RULE 1**

**Sec. 13. Signing of Bills and Resolutions.** The President shall sign, in the presence of the Legislature, while the same is in session and capable of transacting business all bills and resolutions passed by the Legislature. All writs, warrants, and subpoenas issued by order of the Legislature shall be under his hand and seal, and attested to by the Clerk.

*Only Lieutenant Governor or Speaker may sign bills Const. Art. III, Sec. 14.*

**Sec. 14. Lieutenant Governor Voting When.** The Lieutenant Governor, when presiding, shall vote only when the Legislature is equally divided.

*Const. Art. III, Sec. 10.*

### **C. Speaker**

**Sec. 15. Speaker, Presiding, Privilege.** The Speaker shall preside over the Legislature at such times and circumstances as is above set forth. He shall be privileged to speak at any stage of proceedings at any time incident to the duties and responsibilities of his office.

*Distribution of material by Clerk. Rule 2, Sec. 3f.*

*Excuse attendance at committee hearing. Rule 2, Sec. 4.*

*Power to refer bill back to committee. Rule 6, Sec. 2g.*

*Signing of bills. Const. Art. III, Sec. 14.*

**Sec. 16. Report Order of Bills.** (a) The Speaker with the approval of the Executive Board shall report to the Legislature the order in which bills and resolutions shall be considered on General File. His orders as approved are final unless changed by a majority vote of the elected members of the Legislature. General appropriation bills shall be given precedence over all other bills.

*For motions to expedite. Rule 6, Sec. 2c.*

(b) The Speaker may, when sound judgment would so dictate, postpone the schedule reconvening of the Legislature for up to forty-eight hours when (1) an emergency exists due to adverse weather or other causes, or (2) a quorum can not be assembled within one half hour after the time to which the Legislature was to have convened.

### **D. Clerk of the Legislature**

**Sec. 17. Duties, Journal, Report on Employees.** (a) The Clerk of the Legislature shall attend sessions, call the roll, and keep journal of proceedings.

(b) The Clerk of the Legislature shall print no paper or document, except bills and the daily Journal, unless authorized by a majority vote of the elected members of the Legislature, or by the Executive Board.

*Preprinting of Bills. Rule 5, Sec. 3.*

(c) The Clerk of the Legislature shall make a detailed and itemized report to the Legislature each month concerning the number of employees and the amount paid for their services, especially setting out the amount of regular time and overtime, and to whom paid.

(d) The Clerk of the Legislature shall have general charge, except as may be provided by law or by rule, of such parts of the Capitol and its passages as are or may be set apart for the use of the Legislature and its officers and employees.

(e) No communications or letters shall be read by the Clerk of the Legislature unless authorized by the Speaker or the Reference Committee.

*General Duties. RRS 50-114*

*Distribute material, when authorized. Rule 2, Sec. 3f.*

*Fiscal notes, attach to bills. Rule 5, Sec. 6d.*

*Lobby Registration. RRS 50-308 through 50-318.*

*File Administrative Rules. RRS 84-904.*

**Sec. 18. Journal, Governor's Messages, Amendments.** (a) The Clerk shall prepare a daily Journal of the proceedings of the Legislature, which shall be printed and placed each day upon the desks of the members, and the presiding officer shall call in the regular order of business for corrections thereof. After corrections, if any are made, the Journal shall stand approved without motion.

*For order. Rule 7, Sec. 1b.*

(b) The clerk shall enter in the daily Journal messages of the Governor in full, titles of bills, every vote, including the yeas and nays, and a brief statement of the contents of each resolution, petition, and memorial or other paper presented for the consideration of the Legislature.

*Constitutional Amendment, print in full. Const. Art. XVI. Sec. 1.*

(c) The hour at which the Legislature adjourns shall be entered in the daily Journal.

(d) All amendments for which a vote is taken shall be entered in the daily Journal.

## **RULE 1**

(e) Additional copies of the daily Journal, to be mailed at his direction shall be supplied for the use of each member in such manner as shall be provided by the Legislature.

(f) The bound Journal of the session shall be prepared from the corrected daily Journal.

(g) A verbatim record of all debate and questions on all bills and resolutions, and amendments offered thereto, shall be made, transcribed, and preserved, under the direction of the Clerk.

(h) A list of lobbyists who are registered shall be set forth in the Journal.

*RRS 50-310.*

*On Registration of lobbyists. RRS 50-308 through 50-318.*

**Sec. 19. Assistant Clerk, Duties.** The Assistant Clerk shall, in the absence of the Clerk, be authorized to exercise all of the duties herein prescribed for the Clerk of the Legislature, including the signing of those papers which may require the signature of the Clerk of the Legislature.

*RRS 50-115*

## **E. Other Offices**

**Sec. 20. Sergeant at Arms.** (a) The Sergeant at Arms shall attend the Legislature during its sittings, to execute the commands of the Legislature from time to time, together with all such processes issued by authority thereof as shall be directed to him by the presiding officer, and shall enforce strictly the rules as they relate to privileges of the Legislative Chamber.

*RRS 50-116*

(b) The Assistant Sergeant at Arms shall assist the Sergeant at Arms and in the absence of the latter, shall perform all of the duties herein prescribed for the Sergeant at Arms.

(c) Such other security guards as may be necessary shall be under the direction of the Speaker.

*Compel attendance at committee hearing. Rule 2, Sec. 4.*

## **RULE 1**

**Sec. 21. Chaplain.** The Chaplain shall attend and shall open with prayer each day's sitting of the Legislature.

*RRS 50-120*

**Sec. 22. Other Employees, Hiring of.** The Executive Board of the Legislative Council shall hire all employees of the Legislature except those subject to the procedure in Rule 1, Sec. 2. The salaries of permanent employees shall be determined by the Executive Board subject to the limits of the appropriation bill. The Executive Board shall submit a salary schedule the first day of each session to the Legislature for all temporary employee positions. Such salary schedule shall be considered adopted unless rejected or amended by a majority of the elected members. No further adjustments in individual salaries for temporary employees need to be submitted to the Legislature for that session.

*RRS 50-112*





## RULE 2—RULES OF PROCEDURE

**Section 1. Rules, Matters Not Covered.** These rules shall govern the Legislature. In all matters not covered herein, the Legislature shall decide as to the procedure to be followed, the same to require the concurrence of a majority of the elected members.

*Overruling the Chair. Rule 1, Sec. 12.  
Presiding officer, duties. RRS 50-113.*

**Sec. 2. Rules, Suspension, Amendment.** These rules may only be suspended by a three-fifths majority of the elected members by a machine vote, and may be amended by a three-fifths majority vote of the members elected; Provided, any proposed amendment must first be referred to the committee on Rules for consideration and report.

**Sec. 3. Chamber, Guests, Distributions of Material.** (a) The Legislative Chamber shall consist of the entire floor of the Legislative Chamber including the space under the balcony on either side adjacent thereto, or any other space designated by the Legislature or the Executive Board thereof.

(b) No person shall be admitted to the floor of the Legislature, as described in this rule, except the following:

- (i) Members of the Legislature and their immediate families.
- (ii) Officers and employees of the Legislature.
- (iii) Reporters of regularly accredited newspapers and broadcasting stations.

(c) The Governor, state officers, former legislators, and other distinguished visitors may be admitted to the floor upon permission from the Chair.

*State officials appearing before committees. Rule 3, Sec. 6.*

(d) No one shall be permitted to be seated beside members of the Legislature except members of their immediate families upon permission from the Chair. When bills are being read on Final Reading, no one shall be permitted to be seated beside members of the Legislature.

(e) No person, other than those hereinbefore excepted, shall be admitted to the members' cloak room or post office, unless accompanied by a member.

## RULE 2

(f) No printed or written material of any nature may be placed on the desks of the members or distributed to them in the Legislative Chamber, unless such material clearly indicates on its face the person responsible for its distribution. The distribution must be approved by at least one member of the Legislature. The Speaker may authorize the Clerk to distribute material prepared by state agencies.

(g) Members shall remain in their seats during the Final Reading of a bill and until the vote thereon has been announced, except when excused by the President.

**Sec. 4. Attendance at Sessions.** (a) Every member shall be present within the Legislative Chamber during the meetings of the Legislature and shall attend the regular meeting of the standing committee of which he is a member, unless excused by the Legislature, the Speaker, or the committee chairman. Members who have been excused by the Legislature or the Speaker shall notify their committee chairman that they will be absent.

(b) The presence of any member may be compelled, if necessary, by sending the Sergeant at Arms, or such other person or persons as the membership present may authorize, at the expense of such absent member, unless such excuse for nonattendance is made as the Legislature may judge sufficient, and in that case the expense shall be paid out of the contingent fund.

**Sec. 5. Absent Members, Explanation of Vote.** Absent members may have inserted into the Journal how he would have voted had he been present.

**Sec. 6. Expulsion of Members.** No member shall be expelled except by a vote of two-thirds of all members elected to the Legislature, and no member shall be twice expelled for the same offense.

*Const. Art. III, Sec. 10.*

**Sec. 7. Senator Desiring to Speak.** (a) When a member desires to speak in debate or to deliver any matter to the Legislature, he shall rise from his seat and respectfully address himself to "Mr. President." A member shall speak only when recognized and shall confine himself to the question before the Legislature.

(b) No member shall interrupt the business of the Legislature nor speak to another who has the floor, except when he may yield to a question. No guest will be introduced during the legislative session except dignitaries

## **RULE 2**

and such dignitaries shall only be introduced by the presiding officer, provided that the presiding officer can announce the presence of visiting groups or organizations at his discretion. Those individuals and groups not introduced may be inserted in the Journal by request. No member shall use profane or abusive language when speaking to or about another member.

**Sec. 8. Transgression of Rules, Call Member to Order.** If any member, in speaking or otherwise, transgresses the rules of the Legislature, the presiding officer shall, or any member may, call him to order, in which case he shall immediately sit down, unless permitted on motion of another member to explain, and the Legislature shall, if appealed to, decide the case without debate. If the decision be in favor of the member called to order, he shall be at liberty to proceed, but not otherwise, and if the case requires it, he shall be liable to censure or such punishment as the Legislature may deem proper.

**Sec. 9. Words Excepted To.** If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the Legislature, but he shall not be held to answer, nor be subject to the censure of the Legislature therefore, if further debate or other business shall have intervened.

**Sec. 10. Time Limit on Speaking.** Each member shall be allowed to speak up to three times for not more than five minutes on each occasion, upon any one question in deliberation during the legislative day, without leave of the Legislature, unless he be the mover, proposer, or introducer of the matter pending in which case he shall be permitted to speak in reply, but not until every other member choosing to speak shall have spoken. Provided, however, the mover, proposer or introducer of the matter pending may speak for ten minutes when he first presents the matter to the Legislature.

**Sec. 11. Personal Privilege.** Personal privilege shall be, first, those affecting the rights, dignity, and integrity of the Legislature collectively; and second, the rights, reputation, and conduct of members individually. They shall have precedence over all other questions except motions to adjourn. Personal privilege shall not be used to permit any discussion or debate pertaining to any measure pending before the Legislature. All questions of privilege shall be channeled through the presiding officer, who shall determine their order of consideration.



## RULE 3—COMMITTEES

**Section 1. Standing Committees Defined.** All committees with regular meeting times shall be identified as standing committees. The membership of all standing committees shall be appointed at the beginning of each session beginning in odd-numbered years and shall continue until the regular session in the next subsequent odd-numbered year.

**Sec. 2. Standing Committees, Permanent.** The standing committees and the number of members shall be as follows:

Agriculture and Environment . . . . .	8 members
Appropriations . . . . .	9 members
Banking, Commerce and Insurance . . . . .	8 members
Business and Labor . . . . .	7 members
Constitutional Revision and Recreation . . . . .	7 members
Education . . . . .	8 members
Government, Military and Veterans Affairs . . . . .	8 members
Judiciary . . . . .	8 members
Miscellaneous Subjects . . . . .	8 members
Public Health and Welfare . . . . .	7 members
Public Works . . . . .	8 members
Revenue . . . . .	8 members
Urban Affairs . . . . .	8 members

The Speaker shall not be a regular member of any standing committee.

All committee members shall be nominated by the Committee on Committees in such manner as is hereafter set forth.

*Committee on Committees. Rule 3, Sec. 17.*

*Budget—Governor's Bill, Introduction. Rule 5, Sec. 7.*

*Chairman, Appropriations Committee, Member Executive Board. RRS 50-401.01*

*Government Committee—Review Civil Defense program. RRS 50-127*

**Sec. 3. Chairman, Vice-Chairman.** (a) The Chairman of each committee shall be selected by secret ballot on the floor of the Legislature.

(b) Each standing committee shall elect from its membership a vice-chairman to serve in the absence of the chairman.

## **RULE 3**

**Sec. 4. Meeting Times.** Standing committees shall meet at 2:00 p.m., unless otherwise ordered by the Legislature. Any committee chairman before deciding not to hold committee meetings or a committee meeting on an assigned day, must receive permission from the Reference Committee.

*Reference Committee. Rule 3, Sec. 19.*

*Excuse from attendance. Rule 2, Sec. 4.*

**Sec. 5. Public Hearing, Notice.** Before taking final action on a bill or resolution, a committee shall hold a public hearing thereon and shall give at least seven calendar days' notice, after the bill shall have been printed, by publication in the Legislative Journal, of the date and time of said hearings. No bill, having been set for public hearing, shall be withdrawn nor the hearing canceled within seven calendar days' of the date set for said public hearing, except for hearings set during the first 20 legislative days of each session, there shall be required only five calendar days' notice of said hearing or withdrawal of said bill.

*Reference of bill to committee. Rule 3, Sec. 20.*

*Withdrawal of bills before hearing. Rule 5, Sec. 11.*

**Sec. 6. State Officials Appearing Before Committees.** State officials and department heads, or their designee and state employees may appear before any legislative committee.

*State officials appearing on chamber floor. Rule 2, Sec. 3.*

**Sec. 7. Executive Sessions, Press.** Executive sessions of standing committees shall be open to the news media.

**Reports on votes by a committee shall be as follows:**

1. The vote of an individual senator on all motions may be reported.
2. The press may report the vote of individual senators by name on any motion.

*Privilege of press on floor. Rule 2, Sec. 3b iii.*

## RULE 3

**Sec. 8. Consideration and Correlation of Bills.** Standing committees shall consider and report without unnecessary delay all bills and resolutions referred to them. Standing committees shall be authorized to combine and to correlate the provisions of different bills referred to them and related to the same subject under the number of one of the correlated bills, and may, before taking final action on any bill, adopt amendments thereto, for the consideration of the Legislature.

The chairman of each committee shall take into consideration the importance, need for, and passage of the bills referred to his committee and set the bills for hearing accordingly.

*Review of workload by Committee on Committees. Rule 3, Sec. 17f.*

**Sec. 9. Debate Before Committees.** Each standing committee shall keep a record of its proceedings. Any two members of the committee may demand a roll call upon the reporting of any bill, or upon amendments thereto. The vote so taken shall be made a part of the committee report.

**Sec. 10. Request From Committee, Bills Held.** (a) Except for the general appropriation bills necessary for the support of the state government for the biennium, the Legislature may, by vote of a majority of the elected members, request a report from any standing committee at any time after said committee shall have been in possession of a bill or resolution for twenty legislative days.

(b) Any senator may move that a bill be placed on General File twenty days or more after the committee hearing, and by a vote of a majority of the elected members, said bill shall be placed on General File.

(c) Any time the introducer of a bill attempts to take a bill from committee to be placed on General File, the bill shall stand indefinitely postponed if the motion fails to receive a majority vote of the members elected to the Legislature.

**Sec. 11. Report of Bill to Legislature.** In reporting a bill to the Legislature, whether with or without amendments, a standing committee shall, by vote of a majority of its members, recommend that the bill be placed on General File or that the bill be indefinitely postponed. Such action shall be taken at regularly scheduled committee meetings only. A report on a bill or resolution must be made to the Legislature within eight calendar days after the committee has acted upon the particular measure. No bill shall be

### **RULE 3**

reported by the committee to be placed on General File unless the amendments, if any, are approved as to form and draftsmanship by the bill drafter.

**Sec. 12. Indefinitely Postponed Bills.** If the standing committee report on a bill be to postpone indefinitely, the bill shall stand indefinitely postponed; Provided, that such bill may be placed on General File or referred back to the standing committee by a three-fifths vote of the elected members upon motion made within three legislative days after the committee makes its report to the Legislature, or by a two-thirds vote of the elected members upon motion made more than three legislative days after such committee report. Not more than one bill shall be raised from committee on any one motion. A motion to raise cannot be amended to include any other bill or subject matter. A motion to raise must be disposed of by the Legislature within five legislative days after the motion is available for consideration or it shall be deemed defeated.

**Sec. 13. Standing Committee Statement.** Each standing committee with the assistance of the legislative staff shall, when reporting a bill, submit therewith a brief statement of the main purpose and the provisions of the bill, and, if recommended to General File, a copy of all amendments recommended by the committee. Such statement shall give the committee's reason for so reporting. A minority view signed by whoever proposed it may also be given. Copy of amendments shall be furnished to the members. On a motion to report the bill to the floor the majority report shall reflect the voting record of each senator.

**Sec. 14. Temporary Appointments.** (a) When a member is unable to serve, the chairman of such committee after a majority vote of the remaining members shall request to fill such vacancy or vacancies. The request shall be made to the Committee on Committees and such committee shall appoint either the Speaker, or a member from a regular standing committee having eight members to fill such vacancy or vacancies.

(b) A temporary appointment may be made by the chairman of the Committee on Committees for only one day when requested by a chairman of a regular standing committee which lacks a quorum. When a member is appointed from an eight-member committee, the consent of the member to be appointed shall first be obtained. The temporary appointee shall have the right to vote only on the bill or bills that actually have been heard by the appointee and provided that the vote is taken on such bills on the day the bill or bills are heard. When such appointment is made in case



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of an incapacitated member or members, such appointee shall cease to be a member of such committee upon the return of the incapacitated member for whom he was appointed.

**Sec. 15. Select Committees, Defined.** All permanent committees without a regular meeting time shall be identified as select committees. The members of all select committees shall be appointed by the Committee on Committees unless otherwise provided for by statute or rule.

**Sec. 16. Select Committees, Named.** The permanent select committees shall be as follows:

Committee on Committees .....	13 members
Enrollment and Review .....	1 member
Reference .....	9 members
Rules .....	5 members

*Committee on Committees. Rule 3, Sec. 17.*

*E & R. Rule 3, Sec. 18.*

*Reference Committee. Rule 3, Sec. 19.*

*Rules Committee, Review of Amendment to Rules. Rule 2, Sec. 2.*

**Sec. 17. Committee on Committees.** (a) At the commencement of each session, the Legislature shall elect a Committee on Committees to consist of thirteen members, one at large who shall be chairman, and three from District No. 1 consisting of legislative districts Nos. 1 through 3, 25 through 30, 32, 45, and 46; three from District No. 2 consisting of legislative districts Nos. 4 through 14, 20, and 31; three from District No. 3 consisting of legislative districts 15 through 19, 21 through 24, 34, 35, and 40, and three from District No. 4 consisting of legislative districts 33, 36 through 39, 41 through 44, and 47 through 49.

(b) The Committee on Committees by a majority vote of all of its members, shall recommend to the Legislature for its approval appointments to the standing and select committees, each with the number of members as set forth, unless otherwise provided for herein or by statute.

(c) Committee on Committees shall publish a schedule of regular standing committee meetings, in such manner as to avoid, as far as possible, conflicts in the assignment of members to such committees.

### RULE 3

(d) All nominations made to the Legislature by the Governor, requiring confirmation by the Legislature, shall be referred to the Committee on Committees, and the same procedure shall be followed as governs the handling of other matters before standing committees, unless the Legislature shall otherwise direct by unanimous vote.

*73-74 Attorney General Opinion No. 56 – Need 25 votes to disapprove.*

(e) The chairman of the Committee on Committees shall daily report the number and identity of any bills held by a committee when said committee has taken action on said bill more than eight days prior thereto. Said report shall be set forth in the Journal.

(f) The Committee on Committees shall have authority to call before it a committee chairman and discuss the workload of said committee. They shall hear and dispose of all written complaints filed with said committee by a senator against any committee chairman. The Committee on Committees shall conduct said hearing in accordance with its own rules.

*See Rule 3, Sec. 3 a for selection of chairman.*

*See Rule 3, Sec. 3 b for selection of vice-chairman.*

**Sec. 18. Enrollment and Review.** (a) The chairman of Enrollment and Review shall be in order at any time in reporting bills which have been engrossed for Final Reading and passage. In the absence of the chairman, the vice-chairman of the Judiciary Committee shall assume the duties of the chairman of the Enrollment and Review Committee.

(b) The bill drafting service shall have supervision of and provide legal services for Enrollment and Review Committee.

(c) The chairman of Enrollment and Review shall have authority, without being required to include the same specifically in his reports and recommendations to the Legislature, in accord with accepted usage:

- i To correct the spelling of words, to correct erroneous division and hyphenation of words, to capitalize or decapitalize words, and to change numbers from words to figures or from figures to words, in new and independent acts, in the new matter of amendatory acts, in standing committee reports, and in General File, Select File, and specific amendments.
- ii To underscore or remove underscoring, as the case requires, in standing committee reports and in General File, Select File, and specific amendments.

## RULE 3

- iii When an amendment to add the emergency clause, the severability clause, or provide an operative date is adopted on Select File which does not spell out the standard clause or section and make the necessary change in the title, the chairman of Enrollment and Review shall also have the authority to add to the engrossed bill the standard clause or section, assigning to it the appropriate section number, and make the necessary change in the title as a matter of course without including such action in his reports and recommendations to the Legislature or making any special record thereof.

*For amendments to title. Rule 7, Sec. 3c.*

*For engrossment of bill. Rule 5, Sec. 9.*

**Sec. 19. Reference Committee.** The Executive Board shall constitute the Reference Committee. The Reference Committee shall review each bill and resolution and either refer the bill to a standing committee or to General File.

Those placed on General File will be bracketed for five calendar days, and if one senator requests a public hearing on one or more of these bills, they will then be referred to a committee. Bills on General File for which public hearings have not been requested will be handled as all bills on General File.

*Reference of resolutions. Rule 4, Sec. 8.*

**Sec. 20. Objection to Reference of Bills.** Any member may object to the reference of any bill or other proposition, and correction in case of error in reference may be made by the Legislature by unanimous consent, or by the vote of a majority of the elected members.

**Sec. 21. Special Committees.** Special committees shall include all permanent committees other than standing or select committees. The special committees shall include but not be limited to the following:

Intergovernmental Cooperation. RRS 81-816 . . . . .	5 members
Nebraska Retirement Systems. RRS 50-416 . . . . .	5 members
Conflict of Interest. RRS 49-1105 . . . . .	4 senate members
Law Enforcement and Justice Advisory	
Committees, Judiciary Committee. RRS 50-601 . . . . .	8 members
Nebraska Transportation Advisory Committee. RRS 50-421.5 members	
Education Commission of the States. RRS 79-2504 . . . . .	4 members
Administrative Rules Committee. RRS 84-908 . . . . .	9 members
(Chosen by Congressional caucus)	

### **RULE 3**

**Sec. 22. Investigating Committees.** The Committee on Committees may appoint other select committees when authorized by the Legislature. No investigating committee of the Legislature shall be created except by resolution which shall set forth, with supporting statements, the reasons for and the purposes of the investigation, and no committee thus established shall function except during the interim between legislative sessions.

**Sec. 23. Nebraska Retirement Systems Committee.** The Nebraska Retirement Systems Committee together with the chairman of the Appropriation Committee shall function during each legislative session as a special committee of the Legislature, shall have jurisdiction over all bills proposing new or amending existing retirement systems of the state and its political subdivisions. All rules of procedure and operation of the standing committees shall apply, except as to a date certain for holding hearings.

*RRS 50-416*

**Sec. 24. Intergovernmental Cooperation.** In addition to the members of the Intergovernmental Cooperation Committee chosen in accordance with Sec. 81-816, the Executive Board may appoint alternate members to serve on such assignments as the chairman shall direct.

## RULE 4—RESOLUTIONS

**Section 1. Identifications.** A resolution shall be designated as Legislative Resolution \_\_\_\_\_. All resolutions shall be numbered consecutively for each Legislature. All resolutions shall be introduced and read by the Clerk upon introduction and shall be printed in the Legislative Journal.

*73-74 Attorney General Opinion No. 13 – Resolutions must be printed and read before a vote is taken.*

**Sec. 2. When Considered As a Bill.** Resolutions which propose amendments to the state constitution, propose the ratification of amendments to the federal constitution, or memorialize the Congress for the purpose of proposing amendments to the U. S. Constitution, or the rejection, change, alteration, amendment, or modification of rules under the provisions of Section 84-904, Reissue Revised Statutes of Nebraska, 1943, shall be considered and adopted in the same manner as bills.

*Const. Art. III, Secs. 13, 14; Art. IV, Sec. 15; Art. XVI, Sec. 1.  
Const. Art. III, Sec. 25, Cannot appropriate funds by resolution.*

**Sec. 3. Study Resolution.** Resolutions which propose that studies be made by the Legislative Council shall be first referred to the Executive Board of the Legislative Council, this Board to submit a report with each resolution recommending that the proposed study be made or rejected. The Executive Board of the Legislative Council shall determine the time and number of interim studies. All such studies authorized by the Legislature shall be referred to the appropriate permanent standing or special committee by the Executive Board. The chief introducer of a study resolution shall, if not otherwise a member of the committee to which the resolution is assigned, be an ex officio member of said committee, but such membership shall not extend beyond the convening of the next legislative session and shall be limited to a study of that resolution only.

*RRS 50-404*

**Sec. 4.** All resolutions, if amended, shall pass through the process of Enrollment and Review in the regular course of their consideration.

**Sec. 5.** All resolutions shall be adopted by an affirmative vote of a majority of the elected members except for those specified in Section 2 which shall be considered and adopted in the same manner as bills.

## **RULE 4**

**Sec. 6.** Resolutions shall lie over for consideration at least one legislative day after introduction.

**Sec. 7.** Only those resolutions specified in sections 2 and 3 of this Rule shall be engrossed unless otherwise ordered by the Legislature or unless the Clerk determines the nature of the resolution is such that upon its adoption it must be engrossed to properly achieve the purpose for which it was presented. All resolutions which are engrossed shall be enrolled and signed by the Lt. Governor or Speaker and certified to by the Clerk as to the date of final passage.

*Const. Art. III, Sec. 14.*

**Sec. 8. Reference to Committee.** Resolutions other than those covered by Secs. 2 and 3 of this rule may be referred to a committee if a motion to do so is adopted by a majority of the elected members.

**Sec. 9. Reviving Resolution Killed by Committee.** If the standing committee report on a resolution be to postpone indefinitely the resolution shall stand indefinitely postponed; Provided, that such resolution may be considered by the members of the Legislature if a majority vote of the elected members so direct, provided the motion is made within three legislative days after the committee makes its report to the Legislature. A motion to raise cannot be amended to include any other resolution or subject matter.

*For public hearing, Rule 3, Sec. 5.*

**Sec. 10.** A committee, when reporting out a resolution shall attach thereto a statement setting forth what is sought to be accomplished and the committee vote. The statement shall be set out in full in the Journal.

*Emergency seat of government; Resolution proving for, must be signed by Governor. RRS 23-2103, 1943, by Governor.*

## RULE 5—BILLS—GENERAL PROVISIONS

**Section 1. Drafting of Bills.** The bill drafter shall prepare all bills and amendments in proper form when requested by members of the Legislature, newly elected members of the Legislature, or heads of executive departments. No bills or major amendments shall be introduced or considered unless the same has been approved as to form and draftsmanship by the bill drafter. In order to shorten the length of sections, the bill drafter shall, in the drafting of new sections, make each paragraph a separate section except when to do so would be contrary to sound bill drafting practice. The bill drafter shall make available a continuing compilation of sections to which amendments are proposed so as to reduce unnecessary duplication of bills. This section index of bills drafted shall be available to all senators, newly elected senators, and other persons entitled to have bills drafted. After January 1 of each year no bill shall be drafted by the bill drafter unless requested or authorized by a member of the Legislature.

Legislative Bill No. \_\_\_\_.

*Style of bill. Const. Art. III, Sec. 13.*

(b) No bill shall contain more than one subject, and the same shall be clearly expressed in the title. No law shall be amended, unless the new act contains the section or sections as amended, and the section or sections so amended shall be repealed.

*Const. Art. III, Sec. 14.*

(c) An amendatory bill or constitutional provision shall be so prepared and printed as to show the new matter proposed, old matter to be retained, and old matter to be omitted from the Statutes or Constitution.

**Sec. 3. Revisor Correctional Bills, Pre-Printing.** (a) Preceding each legislative session, the chairman or any member of the Executive Board of the Legislative Council, or if the Executive Board so requests, the senator who, in the preceding session served as chairman of the Judiciary Committee, shall sign as introducer the Revisor of Statutes correctional bills. The Clerk of the Legislature shall number these bills consecutively beginning with number 1 and shall show the committee reference to be General File. The Clerk of the Legislature shall have these bills printed before the convening of the next regular session.

(b) In addition to causing to be printed the revisor bills, the Clerk shall

## **RULE 5**

number and cause to be printed all bills delivered to him by the Executive Board, provided said Board has referred said bills to a standing committee. No bill so printed shall be withdrawn until after the Legislature convenes.

**Sec. 4. Introducers Signing Bills.** Members shall introduce only such bills as they are willing to endorse and support personally. Not more than three senators shall sign any single bill; Provided that, this limitation shall not apply to committee bills, to Legislative Council bills, and to Revisor of Statutes correctional bills. The last name and district shall be used, unless an initial or name is necessary to identify the introducer. Any additional signers shall be by the suspension of the rules with a machine vote and cannot be made by unanimous consent.

**Sec. 5. Introduction of Bills, Ten Day Limitation.** (a) Except as provided in Rule 5, Sec. 6, no bill shall be introduced after the tenth legislative day during sessions in odd-numbered or even-numbered years, except as hereinafter provided.

(b) A bill may be introduced at the request of the Governor at any time. A standing committee or special committee may introduce a bill for any purpose including at the request of another senator provided said bill receives the endorsement of a majority of the committee members, whose names shall be on the bill and the motion to introduce the bill receives a vote of three-fifths of the elected members of the Legislature.

(c) A copy of intent of a bill recommended for introduction by a committee must be placed on each member's desk before such introduction of bill is voted upon.

(d) In regular sessions each member shall be limited as an introducer or co-introducer to a total of 10 bills for the period of introduction of bills by individual members. Any bill withdrawn by a member during the introduction period shall be counted in the limitation of 10 bills; Provided, those bills introduced as a result of an interim study of the Legislative Council shall not be included in the limitation on individual members. Bills introduced under Rule 5, Sec. 3a will not be included in the limitation.

**Sec. 6. Fiscal Analyst.** (a) A copy of every bill introduced shall be transmitted by the Clerk to the Legislative Fiscal Analyst. The Legislative Fiscal Analyst shall review each bill and make an estimate of the anticipated change in state, county, or municipal expenditures or revenue under the provisions of the bill. The Legislative Fiscal Analyst shall



## RULE 5

prepare a statement to be known as a fiscal note to be attached to each bill prior to its public hearing by a committee, or its first consideration on General File if the bill is referred directly to General File. The fiscal note shall set forth the fiscal impact of the bill and the governmental subdivision affected by the fiscal impact as determined by the Legislative Fiscal Analyst. No bill which has a fiscal impact of more than five thousand dollars shall be heard by a committee or considered on General File unless the fiscal note is attached.

(b) In determining the fiscal impact of any bill, the Legislative Fiscal Analyst shall request the appropriate department or other entity of state government or subdivision thereof, or appropriate association which will be affected by the bill to prepare the fiscal note within five calendar days.

(c) The Legislative Fiscal Analyst shall review the fiscal note so prepared and shall also request a review of such fiscal note by the Budget Division of the Department of Administrative Services. The statement by the Budget Division of the Department of Administrative Services shall be attached to and become a part of the fiscal note. The Legislative Fiscal Analyst shall include in the fiscal note any exceptions to the conclusions of the department or other entity and of the Budget Division of the Department of Administrative Services.

(d) The fiscal note shall be delivered by the Legislative Fiscal Analyst to the Clerk within ten calendar days of receipt of a copy of the bill for analysis. The Clerk shall attach the fiscal note to the bill and to all copies prepared for members.

(e) When amendments to a bill are adopted by a committee or the Legislature and such amendments would change the fiscal impact of the bill, the appropriate changes shall be made in the fiscal note.

(f) When the Legislative Fiscal Analyst determines that the fiscal impact of a bill will be less than five thousand dollars, it shall not be necessary to prepare a detailed fiscal note, and the fiscal note may merely state this fact.

(g) When any bill proposes adoption of a new program or change of an existing program either of which would require an appropriation of \$50,000 or more to implement in the ensuing fiscal year an appropriation bill for the purposes of funding the provisions of such bill shall be prepared from the information contained in the fiscal note. Such appropriation bill shall be prepared at the direction of the Chairman of the

## RULE 5

Appropriations Committee. Such bill shall be placed on General File and considered as introduced by the introducer of the original bill or by the committee which offered the amendments creating the expenditure, and shall bear the number of the original bill with the letter "A" added, and shall accompany the original bill through all stages of the legislative process. All bills for which an "A" bill is prepared shall be bracketed on Final Reading until the "A" bill is advanced to Final Reading.

(h) The authorization bill shall first be considered and if it should be passed on Final Reading then the "A" bill shall be read and voted on for final passage.

(i) The note shall be factual in nature, as brief and concise as may be, and shall if possible provide a reliable estimate in dollars and, in addition, it shall include both the immediate effect and, if determinable or reasonably foreseeable, the long range effect of the measure. If, after investigation, it is determined that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given.

(j) No comment or opinion shall be included in the fiscal note with regard to the merits of the measure for which the note is prepared, however, technical or mechanical defects may be noted.

(k) The subject matter of bills submitted to boards, commissions, departments, agencies, or other entities of the state by the Fiscal Analyst shall be kept in strict confidence by said agencies and by the office of Fiscal Analyst together with the content of the fiscal note itself and no information relating thereto shall be divulged by any official or employee prior to its introduction in the Legislature.

(l) To implement the provisions of and assure compliance with Art. III, Sec. 22, of the Nebraska Constitution (deficiency appropriations), and Art. IV, Sec. 7 of the Nebraska Constitution (appropriations in excess of Governor's request), the Appropriations Committee shall advise the Legislature of the number of votes required to assure passage of the same.

*For creation of position. RRS 50-418.*

*For duties of position. RRS 50-419.*

**Sec. 7. Governor's Budget Bill.** The budget bill prepared by the Governor shall be shown as introduced by the Speaker of the Legislature at the request of the Governor.

*Governor's Budget message.  
Const. Art. IV, Sec. 7.*

**Sec. 8. Reading Title of Bills, Printing.** Every bill and resolution shall be read by title when introduced, and a printed copy thereof provided for the use of each member, and the bill and all amendments thereto shall be printed and read at large before the vote is taken upon its final passage.

*Const. Art. III, Sec. 14.*

**Sec. 9. Engrossment of Bills.** All bills, before being advanced to Final Reading and passage, shall be engrossed, and copies thereof showing new and stricken matter shall be made available to members.

**Sec. 10. Expenditure of Legislative Funds.** Those expenditures on which the Legislature votes shall require the approval of the majority of the elected members.

*Salaries of employees. Rule 1, Sec. 22.*

**Sec. 11. Withdrawal of Bills.** No bill, having been introduced may be withdrawn except upon motion of the first introducer with the consent of his co-introducers. Such motion, when made, shall not be considered prior to the next succeeding legislative day, and, for its adoption, shall require the affirmative vote of a majority of those voting upon the question.

*Withdrawal of bills set for hearing. Rule 3, Sec. 5.*

**Sec. 12. Division of Bills, Prohibited.** No bill shall be divided into two or more bills.

**Sec. 13. Holding of Bills.** Unless otherwise disposed of, all bills on which no final action has been taken by the time of adjournment of the regular session in odd-numbered years shall be held over for consideration at the regular session convening in even-numbered years.



## RULE 6—BILLS—STAGES OF CONSIDERATION

**Section 1. Introduction of Bills.** Starting with regular sessions in odd-numbered years, bills shall be numbered consecutively starting with the number 1. Bills introduced in regular sessions in even-numbered years shall start with the number following the number of the last bill introduced in the preceding regular session of an odd-numbered year, (bills introduced in any special session shall start with the number 1) and shall be numbered consecutively as read by the Clerk. After introduction the Clerk shall deliver bills requiring reference to the Reference Committee.

**Sec. 2. General File.** (a) The Clerk of the Legislature shall read the number and the title of the bill and the name of the principal introducer as it comes up for consideration on General File. A bill will not be read section by section unless requested by a member of the Legislature.

(b) Each section shall be open to amendment. The amendments, if any, recommended by standing committees, shall first be considered. The introducer's amendments, if any, shall next be considered, after which he may move to advance and explain the bill. Other amendments and motions permitted by these rules may then be offered and shall be considered after the introducer has explained the bill in the order in which they are filed with the Clerk, subject to the provisions of Rule 7, Sec. 3.

(c) Bills shall be listed and considered on General File in the order in which they shall be reported from the standing committees, except as modified by the Speaker; Provided, that any bill that comes up for debate for a second time, with the introducer present, shall be placed by the Clerk at the bottom of General File if said introducer asked for further time, unless otherwise directed by the Speaker.

*Speaker determine order of bills. Rule 1, Sec. 16.*

(d) During consideration of bills on either General or Select File, any member may move that the bill be passed over once and if the motion is carried by a majority of those voting, the bill shall be passed over and shall retain its place on the file.

(e) At any stage of consideration of a bill, a motion to bracket or to unbracket to a day certain or to unbracket shall, if made by the primary introducer of the bill, require a majority of those voting. If made by other than the primary introducer, there shall then be required a majority vote of the elected membership. In any event such motions shall alternatively be passed by unanimous consent of the body.

(f) In the event a motion to indefinitely postpone a bill is made before the bill is read on General File, such motion shall require the affirmative vote of a majority of the elected members.

## RULE 6

(g) In the event a bill has become substantially a new and different bill by reason of amendments having been adopted, the Speaker may refer said bill to the Reference Committee who must refer the said bill to a proper committee for a public hearing; Provided, that a majority of the elected members may overrule the decision of the Speaker.

(h) If in the opinion of the Speaker, the bill is in such form that it should properly be referred back to committee for further action he may by order direct the same; Provided, that a majority of the elected members may overrule the decision of the Speaker. Any rule to the contrary notwithstanding any motion to amend a bill shall require a majority vote of the elected members. Any motion to amend an appropriation bill or a motion to amend an amendment to an appropriation bill shall require a majority vote of the elected members.

(i) Any bill failing to receive 25 votes to be advanced to E & R Initial after three attempts shall be indefinitely postponed.

**The following votes shall be required to adopt the following motions affecting bills on General File:**

*UC-Unanimous Consent; MEM-Majority of Elected Members;  
MTV-Majority of those voting.*

### GENERAL FILE

		Rule-Sec.
On introduction of bill, Motions to		
Add names as introducers	UC	5-4
More than 3, Suspension of Rules		
Place on General File without public hearing	MEM	3-19
Withdraw bill	MTV	5-11
On consideration of bill on General File		
Move to pass over	MTV	6-2d
Move to change order	MEM	
Move to IPP before bill is read	MEM	6-2e
Move to IPP after bill is read	MTV	
Move to Advance to E & R Review	MEM	6-3
Move to return to Committee	MEM	
Move to Reconsider		
(within one legislative day thereafter)	MEM	7-7a
(If after one legislative day, by suspension of the rules only)		7-7a
Move to expedite	UC	

## RULE 6

Move to amend	MEM	6-2g
Move to amend the Amendment	MTV	
Move to withdraw bill-first introducer	MTV	5-11
If returned from Select File		
Motion to return to Select File	MEM	6-4d
Motion to amend	MEM	6-2g
Motion to advance	MEM	6-3
Move to return to E & R for Engrossing	MEM	6-4d
Defeated bill, motion to reconsider	MEM	7-7
Returned from Final Reading		
Advance to Final Reading (if no amendments)	MEM	

### *Withdrawal of bills. Rule 3, Sec. 5.*

Sec. 3. Enrollment and Review. Bills when advanced to Enrollment and Review shall be reviewed for recommendations relative to arrangement, phraseology, and correlation. Advancement to Enrollment and Review from General File for such purpose shall require a majority of the elected members. A motion to return to General File from Enrollment and Review shall, for adoption, require the concurrence of a majority of the elected members.

Sec. 4. Select File. When the Legislature considers bills on Select File, any of the following motions shall be in order.

(a) A motion to approve or reject any or all of the changes recommended by the chairman of Enrollment and Review.

(b) A motion to adopt an amendment which shall require a majority of the elected members.

(c) A motion to recommit to the proper standing committee.

(d) A motion to recommit to General File for one or more amendments. If the motion to return is adopted the bill shall be considered first on General File. Any motion may be made the same as when the bill was first on General File. If the bill is readvanced, it shall be given priority consideration by E & R. If the bill is not altered, it may be advanced to E & R for engrossment.

(e) A motion to postpone indefinitely.

(f) Motions made pursuant to subsections b, c, d, and e hereof may be adopted only upon the affirmative vote of a majority of the elected members.

(g) Amendments recommended by E & R shall not be read by the Clerk except upon the request of a member of the Legislature.

(h) Notwithstanding any other provision contained in this section, if the E & R Committee returns a bill to Select File from engrossment, then only the specific enrollment and review amendments may be considered.

(i) Any bill failing to receive 25 votes to be advanced to E & R Final after two attempts shall be indefinitely postponed.

The following votes shall be required to adopt the following motions affecting bills on Select File:

#### SELECT FILE

		Rule-Sec.
Motion to advance to E & R for Engrossing	MEM	
if machine vote requested	MEM	6-4d
Motion to act on E & R amendment	MTV	6-4a
Motion to amend	MEM	6-4b
Motion to recommit to a standing committee	MEM	6-4d
Motion to return to General File for amendment	MEM	6-4d
Motion to Indefinitely Postpone	MEM	6-4e
On bill returned from E & R Engrossing & Final Reading		
Motion to return for specific amendment	MEM	6-5
Motion to adopt specific amendment	MEM	6-5

Sec. 5. Return to Select File. On a motion to return a bill to Select File for a specific amendment, a majority of the elected members must concur. No other amendment shall be considered when the bill is so returned. Such amendment when considered may be adopted by a majority of the elected members.

Sec. 6. Final Reading. No bill shall be voted on for final passage until:

(a) After five legislative days following the introduction of the bill.

(b) Two legislative days after its reference to Final Reading file.

(c) Printed copies of the bill in its final form, as amended, shall have been available to members and on their desks for at least one legislative day.



*Const. Art. III, Sec. 14.*

**Sec. 7. Final Reading, Motions.** On Final Reading the bill shall be read at large with all amendments thereto before the vote is taken. At any time before the roll call shall have begun on Final Reading of the bill, it shall be in order to move:

(a) To recommit the bill to Enrollment and Review to correct an error and for re-engrossment.

(b) To recommit the bill to the proper standing committee, with or without instructions.

(c) To recommit the bill to Select File for specific amendment, which amendment may be adopted by a vote of a majority of the elected members; Provided, however, if the proposed amendment be to add the emergency clause, it may only be adopted by a vote of two-thirds of the elected members.

(d) Any bill returned to Select File for a specific amendment, may if the amendment is rejected, be readvanced to Final Reading without going through Enrollment & Review. A motion to so advance shall require the concurrence of a majority of the elected members.

*Members to remain in their seat. Rule 2, Sec. 3g.*

*No one to be seated beside member during Final Reading. Rule 2, Sec. 3d.*

**Sec. 8. Question on Final Reading.** The question after the Final Reading of bill shall be: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'" If the emergency clause is contained in the bill, the words "with the emergency clause attached" shall be added to the question.

*Majority of elected members required. Const. Art. III, Sec. 13.*

**Sec. 9. Emergency Clause, Votes Requested.** When a bill containing the emergency clause does not receive the required two-thirds constitutional majority on Final Reading, then the emergency clause shall be considered stricken, and the bill without the emergency clause shall be pending on Final Reading, and the question then shall be, "Shall the bill pass with the emergency clause stricken?"

## RULE 6

*Const. Art. III, Sec. 27.*

**Sec. 10. Governor's Veto, Reconsideration.** Upon the day of receipt of a message from the Governor announcing his veto of a bill, or on either of the next five legislative days, any member may move that the bill so vetoed be taken up for passage. Whereupon, the question shall be, "Shall the bill pass, notwithstanding the objection of the Governor?"

*Three-fifths vote of the elected members required to pass bill over Governor's veto. Const. Art. IV, Sec. 15. See also Art. IV, Sec. 7.*

The Governor may disapprove any item or items of appropriation contained in bills passed by the Legislature, and the item or items so disapproved shall be stricken therefrom, unless repassed in the manner prescribed in case of disapproval of bills.

*Const. Art. IV, Sec. 15.*

**Sec. 11. Bills, Passed Over Veto.** Should the Legislature pass a bill over the objections of the Governor by the necessary constitutional majority, it shall so certify and deposit the same with the Secretary of State.

*RRS 84-503.*

**Sec. 12. Certificates.** Whenever the Legislature shall override a line item veto, on any bill as provided for in Article 10, Section 15, the Clerk of the Legislature shall cause to be placed on such bill a certificate in content and form as provided for in RRS 84-503 and shall list the items so overridden by section, page, and line.

In addition to such certificate the Clerk of the Legislature shall note on each line, which the legislature votes to override, a stamp reading "line item veto overridden" and place thereon the date and his initials.

**Sec. 13. (a)** Whenever the Governor shall have vetoed more than one item in an appropriation bill, the Appropriations Committee shall review said veto and the Chairman of the Appropriations Committee shall report within one legislative day to the Legislature on its fiscal implications, and affect on operations. If the Appropriations Committee by majority vote decides to recommend to the Legislature an override of the veto on any portion of such an appropriation bill, the Chairman of the Appropriations Committee or his/her designee shall first be permitted an opportunity to move that the entire bill become law notwithstanding the line item veto therein.

## RULE 6

(b) If such motion fails or is not offered the Chairman of the Appropriations Committee or his/her designee shall then introduce motions to override selected portions of the vetoed bill.

(c) Any member of the Legislature may then offer a motion to override the veto of the bill or any portion thereof if the Appropriations Committee by majority action decides not to recommend overriding the veto of the bill or the veto of that portion of the bill.

(d) It shall require 30 votes of the elected members to amend a veto override motion that includes another line veto item.

**Sec. 14.** When a proposed constitutional amendment does not receive the required four-fifths constitutional majority necessary to submit such proposed amendment to the electors at a special election, then the special election language of the bill shall be stricken, and the bill shall be pending on Final Reading, and the question shall be, "Shall the bill pass providing for the submission of such proposition at the next general election?"

**The following votes shall be required to adopt the following motions on Final Reading:**

### FINAL READING

		Rule-Sec.
To return to standing committee	MEM	6-7
To return to E & R to correct an error	MEM	6-7
To return to Select File for specific amendment	MEM	6-5
Unless to add the emergency clause	2/3	6-7
To pass on Final Reading	MEM	6-8
With emergency clause attached	2/3	6-9
Creation of State Office	2/3	
<i>Const. Art. IV, Sec. 27</i>		
Motion to reconsider (when failed on Final Reading)	3/5	7-7
To add the emergency clause	2/3	6-7
Override Governor's veto	3/5	6-10
"A" bills considered first		5-6g

*Constitutional Amendment. If proposition is to submit amendment to electorate at special election fails to receive 4/5 plurality, then amend bill to provide for general election when adoption is by 3/5 plurality. RRS 49-236.*



## RULE 7—PROCEEDINGS AND MOTIONS

### (A) Order of Business

**Section 1. Meeting Time, Restrictions.** (a) The Legislature shall meet annually at 10:00 a.m. on the first Wednesday after the first Monday in January of each year and thereafter on each legislative day at 9:00 a.m., and adjourn not later than 1:00 p.m., unless otherwise ordered by a majority vote of its members present and voting thereon. The Legislature shall remain in session until it shall adjourn sine die, but in no event shall it remain in session for longer than ninety (90) legislative days in odd-numbered years or sixty (60) legislative days in even-numbered years. This limitation may be suspended by a four-fifths vote of the elected senators.

*Const. Art. III, Sec. 10.*

Each day the Legislature convenes shall be considered a legislative day.

(b) The order of business of the Legislature shall be as follows; except as otherwise provided by the Speaker.

- a. Prayer by the Chaplain
- b. Roll call
- c. Call for correction of the Journal
- d. Petitions and memorials
- e. Notice of committee hearings and reports
- f. Bills on Final Reading
- g. Resolutions
- h. Introduction of bills and reading by title
- i. Consideration of bills on Select File
- j. Motions to reconsider
- k. Motions to advance bills from committee
- l. Other pending motions
- m. Unfinished business, including messages on President's desk
- n. Consideration of bills on General File
- o. Miscellaneous business

(c) Messages from the Governor may be received at any stage of the proceedings.

(d) When a bill shall have been made a special order for a definite time and an adjournment shall intervene for a time beyond the time fixed for such special order, then in that event the bill so made a special order shall be placed in its order on General File. The unfinished business in which the

## **RULE 7**

Legislature was engaged at the adjournment of the last preceding sitting shall have preference in the special order of the day.

(e) Upon call for the introduction of bills, any member or any standing committee to which bills are referred for consideration may introduce one or more bills.

*Introduction of bills. Rule 6, Sec. 1.*

### **(B) Voting Machine**

**Sec. 2. Voting, Electric Roll Call.** (a) All votes shall be taken viva voca unless otherwise provided for herein. Questions shall be distinctly put in this form, to wit: "Those who are in favor of the question say 'aye'; those who are opposed to the question say 'nay'."

(b) If a machine vote is called for or if the presiding officer is in doubt, he shall cause the result to be obtained by means of the electric roll call system, and in such event shall accept only machine tallied votes except that voice votes shall be accepted on a motion before the House while the House is under Call. The presiding officer may vote by voice. Only the totals shall be printed in the Journal. Once having voted aye or nay, senators may call in a change to not voting prior to the locking of the voting board.

(c) Upon the final passage of a bill, or of a resolution if the same required the same consideration as a bill, the vote shall be by yeas and nays, and the electric roll call system shall be used. Voice votes shall be accepted on Final Reading.

(d) Whenever the "ayes" and "nays" are taken by machine vote no member shall be permitted to vote after the decision is announced by the presiding officer or the clerk. Votes not registered on the electric roll call system shall not be counted for or against a proposition. In announcing such vote the clerk shall announce the ayes, the nays, those present and not voting, those absent and not voting, and those excused and not voting, and on any action to advance or amend bills, these totals shall be set forth in the Journal. Voice votes shall be accepted on roll call or record votes.

### **(C) Motions**

**Sec. 3. Motion, in Writing, Withdrawal.** (a) A motion shall be either stated

## **RULE 7**

by the presiding officer or read by the Clerk before a vote is taken. All motions shall be submitted in writing if requested by the presiding officer or any senator.

Once motions are stated they may be withdrawn or modified by the mover before a decision, amendment, or ordering of a vote has been made. A motion to reconsider may be withdrawn only with unanimous consent or a majority vote of the elected members.

When a question is under debate no motion shall be considered except one of the following, which motions shall take precedence in the order stated.

- a. To adjourn
- b. For the previous question
- c. To postpone to a time certain
- d. To recommit to a committee
- e. To amend
- f. To postpone indefinitely

Such motions shall have precedence in the order in which they are arranged, except that motions to postpone indefinitely and amend do not yield to each other.

When any of the following motions shall be made, any action on such motion shall be delayed at least one legislative day and the motion shall be printed in the Legislative Journal:

- a. Motion to postpone indefinitely on Select File
- b. Motion to advance bills from committee
- c. Motion to place bills on General File, notwithstanding the action of a standing committee

(b) When a motion or other proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order.

(c) Amendments to the title shall be made by the Enrollment and Review Committee.

(d) No motion, proposition, or subject, different from that under consideration, shall be admitted under color of amendment.

(e) Any member may call for the division of a question, which shall be divided if it comprehends propositions in substance so distinct that, one

## **RULE 7**

being taken away, a substantive proposition shall remain for the decision of the Legislature. A motion to strike out and insert shall be deemed indivisible, but a motion to strike out being lost, shall not preclude an amendment or a motion to strike out or insert.

(f) When motions are made for reference of the same subject to a select committee and to a standing committee, the question on reference to the standing committee shall be considered first.

**Sec. 4. Shall the Debate Cease.** The previous question shall be in this form, "Shall the debate now close?"

The previous question shall be in order when demanded by five or more members and must be sustained by the vote of a majority of the elected members, and until decided shall, except as provided in this section of this rule, preclude further debate and all amendments and motions, except one motion to adjourn.

On a previous question there shall be no debate. All incidental questions of order, arising after a motion is made for a previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

When the previous question shall have been ordered on a proposition under debate, the mover, proponent, or introducer of such proposition shall be given the right to close the debate thereon.

**Sec. 5. Call of the Legislature.** A Call of the Legislature may be made by any member in the manner following: "I move for a Call of the Legislature." The presiding officer shall direct that the board be cleared and the members shall then vote on placing themselves under Call. If a majority of the senators present and voting vote in favor of such a motion then the Legislature shall be deemed to be under Call. Each member present shall indicate his presence upon the electric roll call system and shall remain in his seat during the Call. After the Clerk shall note the names of the absentees, proceedings under the Call may be suspended at any time by a majority vote of the members then present, and when so suspended shall not again be ordered on the proposition pending, except by a majority vote of the members elected. If all absentees were to vote on one side of the question, and if their combined vote would be insufficient to change the result of the vote, the President shall declare the Call raised.



## RULE 7

*Lieutenant Governor votes only when Legislature equally divided.*

*Rule 1, Sec. 14.*

*Voice vote while House under Call. Rule 7, Sec. 2b.*

**Sec. 6. Postpone to Time Certain.** No motion to postpone to a time certain, to commit, or to postpone indefinitely being decided, shall again be allowed on the same day at the same stage of the bill or proposition.

**Sec. 7. Reconsideration.** (a) When a question has been decided, it shall be in order for any member voting with the prevailing side, or not voting, to move for a reconsideration thereof. A motion to reconsider must be made on the same day the original question was decided or on the next legislative day, except when it be to reconsider the vote on a bill which lacked the constitutional majority on a Final Reading. In such case, it must be made on the same day the original question was decided or on one of the next three legislative days. A motion to reconsider must be disposed of by the Legislature within five legislative days after making the same or it shall be deemed defeated. If the Legislature shall refuse to reconsider, or upon reconsideration shall affirm its first decision, no further motion to reconsider shall be in order unless by unanimous consent.

*Motion to reconsider cannot be withdrawn without leave. Rule 7, Sec. 3.*

(b) Every motion to reconsider shall take preference over all other questions, except a motion to adjourn.

(c) For its adoption, a motion to reconsider shall require the vote of a majority of the elected members, except:

- i Where such motion be to reconsider the vote on a bill which lacked the constitutional majority on a Final Reading, then a three-fifths vote shall be required for adoption.
- ii Where such motion be to reconsider the vote on a bill which lacked the constitutional majority on a Final Reading with the emergency clause attached, but which received the constitutional majority with the emergency clause stricken and the purpose of the motion is to again add the emergency clause, then a two-thirds vote of the elected members shall be required for adoption.

**Sec. 8. Strike the Enacting Clause.** A motion to strike the enacting clause if adopted, is equivalent to rejection of the bill. It shall not have

## **RULE 7**

precedence over a motion to amend nor a motion to indefinitely postpone.

**Sec. 9. Motion to Adjourn.** A motion to adjourn shall be in order, except:

- a. While a member is speaking.
- b. When a motion to adjourn has just been defeated.
- c. After the Final Reading of a bill and during roll call thereon.

A motion to adjourn to a time certain shall have precedence over a motion to adjourn. A motion to recess shall take precedence over either of such motions.

When a motion to adjourn has been made, the Speaker shall be privileged to speak to the motion prior to any vote on such motion, otherwise a motion to adjourn is not debatable.

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**FIRST DAY - JUNE 8, 1978**  
**LEGISLATIVE JOURNAL**  
**EIGHTY-FIFTH LEGISLATURE**  
**FIRST SPECIAL SESSION**

**FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, June 8, 1978

Pursuant to a proclamation by His Excellency, J. James Exon, Governor of the State of Nebraska, the Eighty-fifth Legislature, First Special Session assembled in the West Legislative Chamber of the State Capitol, at the hour of 10:00 a.m., Thursday, June 8, 1978, and was called to order by President Gerald Whelan.

**PRAYER**

The prayer was offered by Dr. Robert Palmer, Chaplain.

We ask thy guidance, O God, upon each and all of us as we begin this special session. Clarify our understanding of the monetary problems facing us, and unite us in a common effort for their solutions. Deliver us from futile hopes and from looking back, that we may move into ever widening horizons. Where we cannot convince, let us be willing to persuade, and help us to see that small deeds accomplished are better than great deeds imagined. We know that we cannot do everything this session, but help us to do that which is necessary, for our sakes, for our people's sakes, and for Jesus' sake. Amen.

**DECLARATION**

Members of the Legislature:

Pursuant to a proclamation issued by the Honorable J. James Exon, Governor of Nebraska, we are here and now assembled in the 85th Legislature, 1st Special Session of the Nebraska Legislature. I, as President, declare that we are now open for the transaction of business.

## LEGISLATIVE JOURNAL

(Signed) Gerald Whelan  
President

**ROLL CALL**

The roll was called and all members were present except Messrs. Clark and Fitzgerald who were excused; and Messrs. Bereuter and Mills who were excused until they arrive.

**UNANIMOUS CONSENT - Members Excused**

Mr. Merz asked unanimous consent to be excused Monday, Tuesday, and Wednesday, June 12-14, 1978. No objections. So ordered.

Mr. Clark asked unanimous consent to be excused June 8, 9, 12, and 13, 1978. No objections. So ordered.

**PROCLAMATION**

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Section 8, Article IV, of the Constitution of the State of Nebraska, I, J. James Exon, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on June 8, 1978, at 10 o'clock a.m., for the purpose of considering and, if deeming it advisable, enacting legislation relating to the following subjects:

1. To extend the operative date of Section 328 of LB 38, Eighty-Fifth Legislature, First Session, 1977, to January 1, 1979.
2. To enact spending limitations on government budgets.

I DIRECT that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by mailing to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nebraska to be affixed this fifth day of June, 1978.

(Signed) J. James Exon, Governor

(SEAL)

Attest:

(Signed) Allen J. Beermann  
Secretary of State



**RESIGNATION**

April 18, 1978

The Honorable J. James Exon  
Governor of Nebraska  
Lincoln, NE 68509

Dear Governor Exon:

Please accept my letter of resignation as State Senator from the 26th Legislative District effective the first day after the Eighty-Fifth Legislature adjourns for the Second Session.

I have served in the Legislature during the same years you have served as Governor of this Great State and it is with some sadness that I am leaving the political arena.

You have appointed me as State Fire Marshal and it is with great enthusiasm, sincerity, and honest effort that I assume that position.

Sincerely,  
(Signed) Senator Wally Barnett  
26th Legislative District

**MESSAGE FROM THE SECRETARY OF STATE**

June 8, 1978

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol Building  
Lincoln, Nebraska

Dear Mr. O'Donnell:

I hand you herewith the official appointment and oath of L. K. EMRY as Member of the Legislature from the Twenty-sixth (26th) Legislative District for the unexpired term of Wallace Barnett, Jr., who resigned.

Sincerely,  
(Signed) Allen J. Beermann  
Secretary of State

Enclosure

## LEGISLATIVE JOURNAL

## CERTIFICATE

STATE OF NEBRASKA  
DEPARTMENT OF STATE

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that L. K. EMRY has been appointed as a Member of the Nebraska Unicameral Legislature from the Twenty-sixth (26th) District for the unexpired term of Wallace Barnett, Jr. who resigned. The term beginning April 22, 1978 shall continue until January 3, 1979 or such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until a successor is duly elected and qualified.

I further certify that the foregoing appointment was made by Governor J. James Exon under the authority granted by the Constitution and by Section 32-1042 of the Revised Statutes of Nebraska.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this eighth day of June in the year of our Lord, one thousand nine hundred and seventy-eight.

(SEAL)

(Signed) Allen J. Beermann  
Secretary of State

## GUBERNATORIAL APPOINTMENT

KNOW ALL MEN BY THESE PRESENTS:

That I, J. James Exon Governor of the State of Nebraska, do hereby appoint L. K. Emry of 3725 North 63rd, Lincoln, Nebraska 68507 to the office of Member of the Unicameral Legislature - 26th District to do and perform all the duties of said office for the term beginning April 22, 1978 for such time as he shall satisfactorily perform all the duties imposed upon such officer by law, and until January 3, 1979. Said appointee succeeds Wallace Barnett, Jr., resigned.

Done at Lincoln, Nebraska, this 24th day of April A.D. 1978.

(Signed) J. J. Exon  
Governor, State of Nebraska

## OFFICIAL OATH

STATE OF NEBRASKA )

)ss.

LANCASTER COUNTY )

“I Louis Knar Emry, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Nebraska, and will faithfully discharge the duties of Member of Unicameral, District twenty-six\* according to the best of my ability, and that at the election at which I was chosen to fill said office, I have not improperly influenced in any way the vote of any elector, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, or any promise of office, for any official act or influence (for any vote I may give or withhold on any bill, resolution, or appropriation).” \*

(Signed) Louis K. Emry

Subscribed in my presence and sworn to before me this 26th day of April, 1978.

(Signed) Allen J. Beermann  
Notary Public

(SEAL)

\*Succeeds Wally Barnett, Jr., resigned

Term as provided by law

\*Constitution of the State of Nebraska

Article XV, Section One.

### MOTION - Election of Officers

Mr. Marvel moved that the following officers be elected to serve for the 85th Legislature, 1st Special Session:

Clerk of the Legislature

Patrick J. O'Donnell

Asst. Clerk of the Legislature

Richard Brown

Sergeant-At-Arms

Ray R. Wilson

Chaplain

Dr. Robert E. Palmer

The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

**MOTION - Rules**

Mr. DeCamp moved that the rules of the 85th Legislature be used in this 1st Special Session.

The motion prevailed with 35 ayes, 0 nays, and 14 not voting.

**MOTION - Approve Membership**

Mr. Savage moved that the membership of the committees of the 85th Legislature be continued in this the 1st Special Session and that the membership of all standing, select and special committees be the same as during the 85th regular session.

The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

**MOTION - Notify Governor**

Mr. Hasebroock moved that the President appoint a committee of five to notify the Governor that the Legislature is now convened, organized, and ready for the transaction of business and to return with any message the Governor may have for this, the First Special Session of the Eighty-Fifth Legislature.

The motion prevailed with 37 ayes, 0 nays, and 12 not voting.

The Chair appointed Mrs. Labedz, Messrs. Savage, Nichol, F. Lewis, and Simon to serve as said committee.

**EASE**

The Legislature was at ease from 10:11 a.m. until 10:14 a.m.

The committee escorted Governor J. James Exon to the rostrum where he delivered the following message.

**MESSAGE FROM THE GOVERNOR**

Special Session of the Nebraska Legislature  
June 8, 1978  
Governor J. James Exon

Mr. President, Mr. Speaker and Members of the Legislature, guests, ladies and gentlemen:

You have been called back for this extraordinary session because of the inadvertent problems with the Criminal Code. This morning I am providing a simple bill which has been approved by the Attorney General that will correct this situation. Please proceed with dispatch to its enactment with the emergency clause.

Not included in the call was any funding mechanism for the session since I was advised that sufficient monies are on hand in the Legislature for up to a ten-day session, which appears adequate to address the limited agenda.

I deliberated at length before deciding to include the second item for consideration, the property tax spending lid limitation.

The reason for my hesitation was that 90 days ago, in these chambers, the Legislature overwhelmingly rejected my efforts in this area are embodied in LB 899, as being too restrictive. Only 16 senators supported the measure as acceptable on the successful kill motion. Those senators were Senators Don Dworak and Orval Keyes, the introducers, and Senators Burrows, Chambers, Clark, DeCamp, George, Kelly, Kennedy, Labeledz, Lamb, Richard Lewis, Moylan, Murphy, Schmit and Stoney. I thank them for their support of the measure.

It was my initial feeling when the special session became necessary because of the Criminal Code difficulties that there probably was not sufficient support to attempt to reconsider a lib bill in the special session.

However, over the past weekend, numerous sources indicated to me that there was evidently a substantial change in the opinion of many senators on the merits of LB 899. Because of the overwhelming requests that the Legislature be given another opportunity to consider this, I decided it would be proper to include the subject in the call.

Senators Don Dworak and Orval Keyes have agreed to introduce the same measure again today for your reconsideration, and I have provided them such a bill. I recommend its passage with the emergency clause so that it can be effective immediately upon my signature. As you know, the proposal calls essentially for property tax increase limitation of a maximum of 7% of the previous year's budget without a vote of the people.

This is a time for frankness and understanding. Should you pass a lid bill which, in my opinion, would be less than forthright and effective, the measure would not receive my approval.

There are some, I am advised, who will accept my lid bill hoping that it will thwart the present initiative petition effort that would set a limit in the Constitution of essentially a maximum of 5% of the previous

year's budget without a vote of the people. It is my conclusion that regardless of what action is taken on this subject in this session, the initiative petition effort will likely succeed and the people will have an opportunity in the General Election of November 7 to vote on that proposition.

The question, if you pass the same version of LB 899, hopefully with the emergency clause, would be whether or not the people would want to even further restrict spending limits and place such language in the Constitution. I see nothing wrong with giving them a choice.

Remember, whatever spending limitations are enacted by the Legislature and/or by the people through the initiative petition effort, there is the same remedy to meet any unforeseen emergencies. The remedy is a good one, the peoples' right to majority vote when and if necessary.

Ever-escalating property taxes are a major concern as more and more spending demands are made and granted. The encouraging sign is that there is a growing realization that it is a necessity to say a firm "no" regardless of the attacks that follow from special interest groups.

Let's take a look for a moment at state governments and its financial relationship with its subdivisions.

We were able to reduce both the state sales and income tax rates effective January 1, 1978 and held those rates even after the regular session. State tax rates will definitely be forced up, however, if the voters approve on November 7 the legislative action, over my veto, of LB 33 which has been temporarily suspended by a peoples' referendum.

I will urge the voters to reject LB 33 because acceptance will guarantee higher state taxes, more local spending, and no assurance of local property tax relief. If the Legislature is seriously concerned about holding or reducing state spending, I would suggest you join me in opposing LB 33 in the form of a legislative resolution accordingly in this special session.

I suspect that it is still not well known that the State of Nebraska does not assess or receive a penny in real or personal property taxes. Those are local taxes, locally assessed, collected and spent.

In addition, local governments are major recipients of ever mushrooming multimillions of dollars in state sales and income tax receipts. One wonders how much more real estate taxes at the local level would be if it were not for both state and federal aid.

The state 1978-79 fiscal year budget shows that of the \$517.1 million including 15 million in revenue sharing appropriated for General Fund operations, 52% or \$266.5 million will be pumped directly back to aid

subdivisions and their individuals, 24% or \$125.1 million for the university and state college systems, and the remaining 24% or \$125.5 million for all other traditional and generally accepted functions of state government including all the legislative, executive, and judicial branch functions.

Of the multimillions channeled back to local governments from the state, \$21 million is for homestead exemptions to relieve property taxes, \$55 million in direct school aid, \$15.5 million for vocational technical colleges, \$18 million in special education, \$3.5 million in teacher retirement benefits, \$58.6 million in personal property tax relief, \$12.6 million reimbursement for elimination years ago of household goods and intangible taxes, \$8.2 million for local mental retardation units, \$4 million for local mental health, \$5 million for local sewage facilities, and many other lesser expenditures.

I cite these figures only to place in some perspective the aid, or in other words, millions of dollars available in spending that has flowed back to local governments from state government in the last 12 years. Before that time, before the state initiated the sales and income taxes, all state funds came from the local governments in the form of real and personal property tax assessments by the state. Indeed, in twelve short years, the tables have turned dramatically, fueled of course by inflation. If we have learned anything from recent history, it is that more spending means more taxes.

That is the mixture that fuels the necessity and demands for spending lids.

Thank you for your attention, and I leave you to your deliberations which hopefully can be reasoned and restrained and concluded by no later than next weekend. This is possible, most will agree, unless the Legislature wishes to bog itself down in meaningless rhetoric and expense.

The committee escorted the Governor from the Chamber.

## **MESSAGES FROM THE GOVERNOR**

April 24, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following appointment requiring legislative confirmation:

Wallace "Wally" Barnett, Jr., Lincoln - State Fire Marshal  
I respectfully submit this appointment for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: Wally Barnett, Jr.  
Committee on Committees  
State Fire Marshal's Office

May 11, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol Building  
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following appointment requiring legislative confirmation:

Gregory W. Kallos, D.D.S., 144 North 44th Street, Lincoln -  
succeeds Gordon W. Shupe, D.D.S., resigned - State Board of  
Health

I respectfully submit this appointment for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: Gregory W. Kallos, D.D.S.  
Committee on Committees  
State Board of Health

May 22, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol



Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following appointment to the State Board of Health requiring legislative confirmation:

S. R. Chaulk, DVM, Humphrey 68642 - succeeds Dr. A. B.

Pittman, Omaha, resigned - term expiring September 14, 1978

I respectfully submit this appointment for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: S. R. Chaulk, DVM  
Committee on Committees  
State Board of Health

May 30, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following appointments to the Nebraska Arts Council requiring legislative confirmation:

Irving R. Dana, 400 Essex Court, Omaha - succeeding Rev.  
Joseph Labaj, resigned - term expires September 2, 1980

Nancy Van Pelt, RFD 1, Box 169, Hickman - succeeding Jane  
Gilmore, resigned - term expires September 2, 1979

I respectfully submit these appointments for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: Irving R. Dana  
Nancy Van Pelt  
Committee on Committees  
Nebraska Arts Council

June 1, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following  
reappointment to the Motor Vehicle Industry Licensing Board  
requiring legislative confirmation:

Forrest F. "Woody" Combs, 21st & O Streets, Lincoln - 3 year  
term expiring May 18, 1981

I respectfully submit this reappointment for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: Forrest F. "Woody" Combs  
Committee on Committees  
Motor Vehicle Industry Licensing Board

June 1, 1978

Mr. President, Mr. Speaker and  
Members of the Legislature  
State Capitol  
Lincoln, Nebraska

Dear Mr. President and Senators:

This is to inform your honorable body that I have made the following  
appointment to the Nebraska Natural Resources Commission  
requiring legislative confirmation:

Dempsey McNeil, RR 2, Holdrege 68949 - succeeds Ted  
Johnson, resigned - serves at the pleasure of the Governor

I respectfully submit this appointment for your consideration.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:do

cc: Dempsey McNeil

Committee on Committees  
Natural Resources Commission

**SELECT COMMITTEE REPORT**  
**Committee on Committees**

May 1, 1978

Mr. President:

The Committee on Committees desires to report upon the appointment of Mr. L. K. Emry to the following committees to replace Senator Wally Barnett who has resigned from the Legislature.

Standing Committees: Judiciary Constitutional Revision and Recreation

Special Committee: Law Enforcement & Justice Advisory

The appointment of Senator Emry to the preceding committees was approved unanimously by the membership of the Committee on Committees.

Voting Aye: Savage, Marsh, Burrows, F. Lewis, Koch, Labedz, Moylan, DeCamp, Dworak, Murphy, Cope, Mills, Rasmussen.

Respectfully submitted,  
(Signed) John S. Savage, Chairman

**COMMUNICATION ON LB 952**

June 2, 1978

The Honorable Allen Beerman  
Secretary of State  
State Capitol  
Lincoln, Nebraska 68509

Dear Mr. Beermann:

Inasmuch as the Legislature did not override the line-item veto by Governor Exon on LB 952, I am delivering the bill for filing in the form and amounts as approved by the Governor.

Very truly yours,  
(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

PJO:sd

**MESSAGE FROM THE SECRETARY OF STATE**

June 2, 1978

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol  
Lincoln, NE

Dear Mr. O'Donnell:

This is to inform you that on this date, we have received and officially filed LB 952 in the form and amounts as approved by the Governor, inasmuch as the Legislature did not override the line-item veto by the Governor.

Sincerely,  
(Signed) Allen J. Beermann  
Secretary of State

**COMMUNICATIONS**

Acknowledged receipt of note of appreciation from the family of Terry Carpenter.

Acknowledged receipt of House Joint Resolution 1049 from the State of Oklahoma regarding federal appropriations. (On file in the Clerk's Office.)

Acknowledged receipt of Senate Concurrent Resolution 1661 from the State of Kansas regarding federal appropriations. (On file in the Clerk's Office.)

**BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 1.** By Dworak, 22nd District; Keyes, 3rd District.

A BILL FOR AN ACT to amend sections 77-1355 and 77-1356, Revised Statutes Supplement, 1977, relating to revenue and taxation; to change provisions relating to political subdivision budget adjustments as prescribed; to repeal the original sections; and to declare an emergency.

**LEGISLATIVE BILL 2.** By Warner, 25th District.

A BILL FOR AN ACT to adopt the Local Option Tax Control Act; to provide for elections; and to declare an emergency.

**LEGISLATIVE BILL 3.** By F. Lewis, 45th District.

A BILL FOR AN ACT relating to political subdivisions; to provide a procedure for limiting budgets; to adjust certain budgets; to provide duties; and to repeal sections 77-1355 and 77-1356, Revised Statutes Supplement, 1977.

**LEGISLATIVE BILL 4.** By F. Lewis, 45th District.

A BILL FOR AN ACT relating to the state budget; to place a limit on future budget increases; to provide a procedure for suspension of the limitation; and to declare an emergency.

**LEGISLATIVE BILL 5.** By F. Lewis, 45th District.

A BILL FOR AN ACT relating to political subdivision budgets; to provide priorities; to require establishment of priority lists; to require publication; and to declare an emergency.

**RESOLUTIONS****LEGISLATIVE RESOLUTION 1.**

Introduced by Warner, 25th District.

2 A Resolution to propose an amendment to Article  
3 VIII, section 1 of the Constitution of Nebraska.

4 WHEREAS, ad valorem taxes are important to the  
5 effectiveness of all levels of local government and there  
6 are many and varied political subdivisions levying ad  
7 valorem taxes which overlap county lines; and

8 WHEREAS, recently reappraised property may bear a  
9 larger financial burden in a political subdivision which  
10 overlaps county lines than other comparable property and  
11 provide additional revenue to such political  
12 subdivisions; and

13 WHEREAS, to insure that the budget of any  
14 political subdivision which has multicounty assessments  
15 is not excessive and does not provide undue fluctuation.

16 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS  
OF

17 THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST  
18 SPECIAL

## 19 SESSION:

20 Section 1. That at the general election in  
21 November, 1978, there shall be submitted to the electors  
22 of the State of Nebraska for approval the following  
23 amendment to Article VIII, section 1, of the Constitution  
24 of Nebraska, which is hereby proposed by the Legislature:  
25 "Sec. 1. The necessary revenue of the State and  
1 its governmental subdivisions shall be raised by taxation  
2 in such manner as the Legislature may direct. Taxes  
3 shall be levied by valuation uniformly and  
4 proportionately upon all tangible property and  
5 franchises, except (1) that the Legislature may provide  
6 for a different method of taxing motor vehicles and may  
7 also establish a separate class of motor vehicles  
8 consisting of those owned and held for resale by motor  
9 vehicle dealers which shall be taxed in the manner and to  
10 the extent as provided by the Legislature and may also  
11 establish a separate class for trucks, trailers,  
12 semi-trailers, truck-tractors, or combinations thereof,  
13 consisting of those owned by residents and nonresidents  
14 of this state, and operating in interstate commerce, and  
15 may provide reciprocal and proportionate taxation of such  
16 vehicles; Provided, that such tax proceeds from motor  
17 vehicles taxed in each county shall be allocated to the  
18 state, counties, townships, cities, villages, and school  
19 districts of such county in the same proportion that the  
20 levy of each bears to the total levy of said county on  
21 personal tangible property and (2) when a political  
22 subdivision authorized to levy a tax or cause a tax to be  
23 levied lies in two or more counties, and one or more of  
24 such counties have not completed a general reappraisal of  
25 all land and improvements within two years of one  
26 another, the State Board of Equalization and Assessment  
27 shall fix separate and distinct tax levies so that the  
1 county which has most recently completed a general  
2 reappraisal of all lands and improvements shall provide  
3 the same percentage of the political subdivision's budget  
4 as it provided prior to such reappraisal. For all tax  
5 years commencing on or after January 1, 1983, the State  
6 Board of Equalization and Assessment shall not be  
7 empowered to fix separate and distinct levies but shall  
8 be required to equalize valuations within any political  
9 subdivision which lies in two or more counties, and  
10 thereafter taxes shall be levied uniformly and  
proportionately upon all tangible property in any such

11 political subdivision. The Legislature may enact laws to  
 12 provide that the value of land actively devoted to  
 13 agricultural or horticultural use shall, for property tax  
 14 purposes, be that value which such land has for  
 15 agricultural or horticultural use without regard to any  
 16 value which such land might have for other purposes or  
 17 uses, and prescribe standards and methods for the  
 18 determination of the value of real or other tangible  
 19 property at uniform and proportionate values. Taxes  
 20 uniform as to class of property or the ownership or use  
 21 thereof may be levied by valuation or otherwise upon  
 22 classes of intangible property as the Legislature may  
 23 determine, and such intangible property held in trust or  
 24 otherwise for the purpose of funding pension,  
 25 profit-sharing, or other employee benefit plans as  
 26 defined by the Legislature may be declared to be exempt  
 27 from taxation. Taxes, other than property taxes, may be  
 1 authorized by law. Existing revenue laws shall continue  
 2 in effect until changed by the Legislature. The  
 3 Legislature may provide that livestock shall constitute a  
 4 separate and distinct class of property for purposes of  
 5 taxation and may further provide for reciprocal and  
 6 proportionate taxation of livestock located in this state  
 7 for only part of a year.”

8 Sec. 2. The proposed amendment shall be  
 9 submitted to the electors in the manner prescribed by  
 10 Article XVI, section 1, of the Constitution of Nebraska.  
 11 The proposition for the submission of the proposed  
 12 amendment shall be placed upon the ballot in the  
 13 following form:

14 “Constitutional amendment to provide that  
 15 property may be taxed at a different rate than  
 16 other similar property in certain political  
 17 subdivisions.

18 For

19 Against”

20 Sec. 3. That the proposed amendment, if  
 21 adopted, shall be in force and take effect immediately  
 22 upon the completion of the canvass of the votes, at which  
 23 time it shall be the duty of the Governor to proclaim it  
 24 as a part of the Constitution of Nebraska.

Laid over.

## LEGISLATIVE RESOLUTION 2.

Introduced by F. Lewis, 45th District.

WHEREAS, an escalating expenditure rate by the federal government is reflected in an annual budget which increases regularly; and

WHEREAS, such budget increases may at times find justification primarily as a means to tap under-exploited sources of revenue rather than a means to provide essential services; and

WHEREAS, taxes paid to the federal government by Nebraskans and other citizens seem to continually increase as support for higher levels of expenditure; and

WHEREAS, one method of controlling federal expenditures is to firmly control the size of annual budget increases.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the United States Congress shall approve no annual budget which exceeds a five per cent increase in expenditures over those of the immediately previous fiscal year.

2. That a copy of this resolution be sent to each member of the Nebraska Congressional Delegation.

Laid over.

### **BILLS ON FIRST READING**

The following bills were read for the first time by title:

**LEGISLATIVE BILL 6.** By Warner, 25th District.

A BILL FOR AN ACT relating to property taxation; to restate the method of levying taxes; to provide for reductions in tax levy authorizations as prescribed; to limit ad valorem taxes as prescribed; to amend sections 2-201, 2-203, 2-203.01, 2-203.02, 2-203.03, 2-203.05, 2-203.06, 2-1604, 2-2444, 2-3225, 3-504, 3-504.02, 3-603, 3-605, 3-613, 3-707, 10-401, 10-406, 10-407, 10-409, 10-501, 10-704, 10-707, 10-801, 12-402, 12-914, 12-923, 14-365.01, 14-365.07, 14-383, 14-514, 14-1026, 14-1805, 14-1821, 15-319, 15-1016, 16-203, 16-675, 16-678, 16-688, 16-693, 16-694, 16-697, 16-702, 17-229, 17-230, 17-231, 17-506, 17-508.02, 17-529.07, 17-529.08, 17-534, 17-545, 17-702, 17-703, 17-713, 17-718, 17-925.01, 17-938, 17-950, 17-951, 17-955, 17-957, 17-964, 17-967, 18-501, 18-512, 18-1005, 18-1201, 18-1202, 18-1203, 18-1204, 18-1205, 18-1401, 18-1502, 18-1503, 18-1505, 18-2107,



19-1302, 19-1309, 19-1402, 19-2102, 19-2504, 19-3313, 19-3315, 19-3318, 19-3321, 19-3327, 21-17,126, 22-215, 22-407, 23-104, 23-107.01, 23-120, 23-259, 23-276, 23-320.03, 23-320.05, 23-320.06, 23-320.07, 23-320.11, 23-343, 23-343.01, 23-343.11, 23-343.13, 23-343.15, 23-343.19, 23-343.21, 23-343.23, 23-343.31, 23-343.46, 23-343.53, 23-343.56, 23-344, 23-351, 23-355.01, 23-360, 23-362, 23-362.03, 23-501, 23-801, 23-802, 23-804, 23-918, 23-927.01, 23-930, 23-2604, 23-2611, 23-2909, 31-370, 31-410.01, 31-411.02, 31-414, 31-424.01, 31-447, 31-450, 31-510, 31-513, 31-531, 31-540, 31-709, 31-711, 31-905, 32-4,114, 35-502, 35-513.01, 35-513.02, 35-519, 39-801, 39-836, 39-1002, 39-1008, 39-1619, 39-1621, 39-1634, 39-1636.01, 39-1637, 39-1649, 39-1902, 39-1903, 39-1905, 39-1906, 46-139, 46-144, 46-1,127, 46-516, 46-543, 46-544, 46-553, 46-574, 46-631, 51-201, 51-316, 51-501, 68-620, 68-620.01, 70-651.04, 71-1611, 71-1629.01, 71-1701, 71-2910, 71-2913, 71-2914, 74-1306, 77-201, 77-202.32, 77-506, 77-507, 77-660, 77-662, 77-664, 77-1209.02, 77-1241.04, 77-1241.06, 77-1242.02, 77-1250, 77-1252, 77-1303, 77-1311, 77-1315, 77-1327, 77-1338, 77-1406, 77-1504, 77-1506.01, 77-1510, 77-1603, 77-1604, 77-1605, 77-1615, 77-1627, 79-320.01, 79-408.02, 79-408.03, 79-415, 79-417, 79-420, 79-422, 79-432, 79-433, 79-436, 79-471, 79-480, 79-481, 79-506.03, 79-533, 79-536, 79-548.01, 79-903, 79-904, 79-1007, 79-1007.02, 79-1036, 79-1052, 79-1103.02, 79-1103.03, 79-1303, 79-1335, 79-2302, 79-2313, 79-2650, 80-102, 81-815.34, 83-1,142, 86-402, and 86-405, Reissue Revised Statutes of Nebraska, 1943, sections 31-727.01, 31-739, 31-740, 35-508, 35-509, and 46-673, Revised Statutes Supplement, 1976, and sections 31-727.03, 77-605, 77-1725, 79-2210, Revised Statutes Supplement, 1977, section 3-155, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 637, Eighty-fifth Legislature, Second Session, 1978, section 77-1605.01, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 643, Eighty-fifth Legislature, Second Session, 1978, section 31-755, Revised Statutes Supplement, 1976, as amended by section 1, Legislative Bill 870, Eighty-fifth Legislature, Second Session, 1978, and section 79-451, Revised Statutes Supplement, 1977, as amended by section 1, Legislative Bill 874, Eighty-fifth Legislature, Second Session, 1978; to provide operative dates; to repeal the original sections, and also sections 77-1355 and 77-1356, Revised Statutes Supplement, 1977; and to declare an emergency.

**LEGISLATIVE BILL 7.** By DeCamp, 40th District.

A BILL FOR AN ACT for submission to the electors of an amendment to Article VIII, section 1, of the Constitution of Nebraska, relating to revenue; to provide for the taxation of owner-occupied dwellings at a rate lower than that levied on other property; to provide for the time and manner of submission and form of ballot; and to provide the effective date thereof.

**LEGISLATIVE BILL 8.** By DeCamp, 40th District.

A BILL FOR AN ACT for submission to the electors of an amendment to Article VIII of the Constitution of Nebraska, relating to revenue; to add new sections 12, 13, 14, and 15 thereto; to limit ad valorem taxes on real property; to authorize impositions of special taxes by certain political subdivisions; to provide for the time and manner of submission and form of ballot; and to provide the effective date thereof.

**LEGISLATIVE BILL 9.** By DeCamp, 40th District.

A BILL FOR AN ACT relating to lobbying; to prohibit certain expenditures; and to provide penalties.

**LEGISLATIVE BILL 10.** By DeCamp, 40th District.

A BILL FOR AN ACT for submission to the electors of an amendment to Article VIII, by adding a new section 16, of the Constitution of Nebraska, relating to revenue; to provide for tax and expenditure limitations; to provide for the submission of the proposed amendment to the electors at the general election in November, 1978; to provide for the manner of submission and form of ballot; and to provide the effective date thereof.

**LEGISLATIVE BILL 11.** By DeCamp, 40th District.

A BILL FOR AN ACT relating to political subdivisions; to limit budgets; to provide procedures for budget increases; to provide for elections; and to declare an emergency.

**LEGISLATIVE BILL 12.** By Nichol, 48th District, at the request of the Governor.

A BILL FOR AN ACT to amend section 28-1341, Revised Statutes Supplement, 1977, as amended by section 54, Legislative Bill 748, Eighty-fifth Legislature, Second Session, 1978, relating to the

Nebraska Criminal Code; to change the operative date of a repeal section; to repeal the original section; and to declare an emergency.

**LEGISLATIVE BILL 13.** By Schmit, 23rd District.

A BILL FOR AN ACT relating to revenue and taxation; to place limitations on budgets; to provide exceptions as prescribed; to provide for an election; to repeal section 23-929, Reissue Revised Statutes of Nebraska, 1943, and sections 77-1355 and 77-1356, Revised Statutes Supplement, 1977; and to declare an emergency.

**LEGISLATIVE BILL 14.** By Schmit, 23rd District.

A BILL FOR AN ACT for submission to the electors of an amendment to Article VIII of the Constitution of Nebraska, relating to revenue by adding thereto a new section 12; to place a limitation on the state budget; to provide for the time and manner of submission and form of ballot; and to provide the effective date thereof.

**MOTION - Rule Change**

Mr. DeCamp moved the following rule change:

**PROPOSED RULE CHANGE**

To amend Rule 3 to read as follows:

**RULE 3 - COMMITTEES**

Section 1. All Committees with regular meeting times shall be identified as standing committees except as otherwise provided by law. The membership of all standing committees shall be appointed at the beginning of each session beginning in odd-numbered years and shall continue until the regular session in the next subsequent odd-numbered year.

Section 2. Insert after "as follows:"

Administrative Rules and Regulations Review .....	7 members
Agriculture and Environment .....	8 members
Appropriations .....	9 members
Banking, Commerce and Insurance.....	8 members
Business and Labor.....	7 members
Constitutional Revision and Recreation .....	7 members
Education.....	8 members

Government, Military and Veterans Affairs .....	8 members
Judiciary.....	8 members
Miscellaneous Subjects .....	8 members
Public Health and Welfare .....	7 members
Public Works .....	8 members
Revenue .....	8 members
Urban Affairs.....	8 members

The Speaker shall not be a regular member of any standing committee.

All committee members shall be nominated by the Committee on Committees in such manner as is hereafter set forth.

#### Section 4. Meeting Times

a) Standing Committees, except for the Administrative Rules and Regulations Review Committee, shall meet at 2:00 p.m., unless otherwise ordered by the Legislature. Any committee chairman before deciding not to hold committee meetings or a committee meeting on an assigned day, must receive permission from the Reference Committee.

b) The Administrative Rules and Regulations Review Committee shall not have a regular meeting time, but shall meet (1) at the call of the chairperson, (2) upon a call signed by any two (2) members of the Committee, or (3) upon a call signed by any five (5) members of the Legislature.

Section 21. Strike the following language: “~~Administrative Rules Committee RRS 84-905 . . . 9 members (Chosen by Congressional caucus).~~”

Referred to the Rules Committee.

Mrs. Marsh asked unanimous consent to be excused until she returns. No objections. So ordered.

#### MOTION - Suspend Rules

Mr. Newell moved to suspend the rules, Rule 5, Sec. 4, to allow the introduction of a new bill with more than 3 introducers.

The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 15.** By Newell, 13th District; DeCamp, 40th District; Koch, 12th District; Reutzel, 15th District; Fowler, 27th District; Schmit, 23rd District.

A BILL FOR AN ACT relating to taxation; to provide a limitation on political subdivision budgets; to provide an exception; to provide for an election; to provide a termination date; and to declare an emergency.

### **EASE**

The Legislature was at ease from 11:03 a.m. until 11:48 a.m.

### **UNANIMOUS CONSENT - Member Excused**

Mr. D. Dworak asked unanimous consent to be excused until he returns. No objections. So ordered.

### **BILL ON FIRST READING**

The following bill was read for the first time by title:

**LEGISLATIVE BILL 16.** By DeCamp, 40th District.

A BILL FOR AN ACT for submission to the electors of an amendment to Article VIII of the Constitution of Nebraska, relating to revenue by adding new sections 17 through 22; to provide a limitation on the budgets of political subdivisions; to provide an exception; to provide for an election; to provide for the time and manner of submission and form of ballot; and to provide the effective date thereof.

### **REFERENCE COMMITTEE REPORT**

#### **LB . Committee**

- 1 Revenue
- 2 Government, Military and Veterans Affairs
- 3 Revenue
- 4 Appropriations
- 5 Revenue

- 6 Revenue
- 7 Constitutional Revision and Recreation
- 8 Constitutional Revision and Recreation
- 9 Government, Military and Veterans Affairs
- 10 Constitutional Revision and Recreation
- 11 Revenue
- 12 General File
- 13 Revenue
- 14 Constitutional Revision and Recreation
- 15 Revenue
- 16 Constitutional Revision and Recreation
- LR1 Constitutional Revision and Recreation

(Signed) Richard Marvel, Chairman

### RESOLUTIONS

#### LEGISLATIVE RESOLUTION 3.

Introduced by Cullan, 49th District; Emry, 26th District; Brennan, 9th District; Burrows, 30th District; Carsten, 2nd District; Cope, 36th District; DeCamp, 40th District; Duis, 39th District; D. Dworak, 22nd District; George, 16th District; Hasebroock, 18th District; Hefner, 19th District; Kahle, 37th District; Kennedy, 21st District; Keyes, 3rd District; Koch, 12th District; Kremer, 34th District; Labedz, 5th District; Lamb, 43rd District; R. Lewis, 38th District; Luedtke, 28th District; Maresh, 32nd District; Marvel, 33rd District; Maxey, 46th District; Merz, 1st District; Moylan, 6th District; Murphy, 17th District; Nichol, 48th District; Rasmussen, 41st District; Reutzel, 15th District; Rumery, 42nd District; Schmit, 23rd District; Simon, 31st District; Stoney, 4th District; Venditte, 7th District; Warner, 25th District.

WHEREAS, the economic well-being of the beef cattle industry is of utmost importance to the State of Nebraska; and

WHEREAS, currently the beef cattle industry is experiencing prices that are allowing cattlemen in the state to regain a sense of financial security; and

WHEREAS, any increase in foreign beef imports will have an adverse financial effect on the American beef cattle industry; and

WHEREAS, President Carter is considering increasing the importation of foreign beef.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That President Carter strongly consider retaining foreign beef import quotas at their current levels.
2. That copies of this resolution be sent to the President of the United States and to all members of the Nebraska Congressional delegation.

#### **LEGISLATIVE RESOLUTION 4.**

Introduced by F. Lewis, 45th District.

WHEREAS, William A. Nichol passed from this life on June 8, 1978 at West Nebraska General Hospital in Scottsbluff at the age of 86; and WHEREAS, Mr. Nichol had been a long time resident of Nebraska; and

WHEREAS, he had been a vital contributor to the well-being of his family, and passed along many values and qualities evident in the private and public life of surviving family members.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature extend their sympathies to the family members of William A. Nichol including Senator William Nichol.
2. That a copy of this resolution be delivered to the family of William A. Nichol as an expression of regret for his passing.

Mr. Cullan moved to suspend the rules, Rule 4, Sec. 6, to consider LR 3 and LR 4 today.

The motion prevailed with 32 ayes, 0 nays, and 17 not voting.

#### **LEGISLATIVE RESOLUTION 3. Read and considered.**

LR 3 was adopted with 33 ayes, 0 nays, and 16 not voting.

#### **LEGISLATIVE RESOLUTION 4. Read and considered.**

LR 4 was adopted with 36 ayes, 0 nays, and 13 not voting.

**UNANIMOUS CONSENT - Print in Journal**

Speaker Luedtke asked unanimous consent to print the following in the Journal. No objections. So ordered.

On June 5, 1978, the Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, called the Legislature of Nebraska to convene in extraordinary session at the State Capitol on June 8, 1978, at 10 o'clock a.m. One of the purposes for which such session was called, as stated in his Proclamation, was "To extend the operative date of Section 328, of LB 38, Eighty-fifth Legislature, First Session, 1977, to January 1, 1979."

The following analysis delineates what transpired at the Eighty-fifth Legislature, Second Session. On January 9, 1978, there was introduced in the Eighty-fifth Legislature, Second Session, LB 748 which proposed to correct erroneous internal references and to clarify language. Legislative Bill 748 proceeded regularly through the legislative process until March 9, 1978, when an amendment was proposed by Senator Carsten to defer the criminal code operative date. The intent of the Legislature is clearly expressed by Senator Carsten who stated:

"SENATOR CARSTEN: Mr. President, members of the Legislature. As you will recall last year when we finally passed the criminal code, the day that we did that I raised the question and conversed with Senator Luedtke relative to the effective date and the possible changes in the criminal code that would be added again this year. In-as-much as July 1st came soon after the adjournment of this session, it would appear that that was a pretty short time for those that are involved with the use of the criminal code to be fully knowledgeable in it. Since last year, and at that time I did make mention that it would appear that it might be well if we made. . . if we set this effective date back at least another six months. Since that time I have learned that the legal profession and the judiciary people later this summer and this fall will be holding informational meetings throughout the state on the criminal code as to what the changes are and a more complete understanding of it. I submit this amendment to you believing that to be realistic and more sensible than to expect these people to enforce what we pass beginning in such a short time after we have adjourned. It is for that purpose that I submit to you this amendment to extend the effective date to January 1, 1979 as opposed to July 1, 1978. I believe it to be sensible and no more



than right that we treat these people fairly so that there is a complete understanding of the changes that have been made.”

Such amendment was adopted and LB 748, on April 14, 1978, was passed by the Legislature with the emergency clause. Thus it is clear that the intent of the Legislature was to delay implementation of the criminal code in its entirety as it is encompassed in LBs 38, 39, 40 and 41, Eighty-fifth Legislature, First Session, 1977.

The Legislature, in adopting LBs 38, 39, 40 and 41, Eighty-fifth Legislature, First Session, 1977, provided an operative date of July 1, 1978. At the 1978 Legislative Session the Legislature enacted LB 748, one purpose of which was, through Senator Carsten’s amendment, to delay the implementation of the criminal code until January 1, 1979. LB 748 amended section 340 of LB 39, 321 of LB 40, and 64 of LB 41 in the following manner:

“This act shall become operative on July 1, 1978, January 1, 1979.”  
LB 748 amended the operative date of LB 38 by amending section 28-1341, 1977 Supp., which originally was section 325 of LB 38, in the following form:

“Sections 28-1336 to 28-1340 shall become operative on September 2, 1977. Sections 28-105 and 28-106 shall become operative on July 1, 1978. The other sections of sections 28-101 to 28-1335 shall become operative on July 1, 1978 January 1, 1979.”  
Section 325 of LB 38 before publication in the 1977 Supplement provided:

“Sections 320 to 324 of this act shall become operative on their effective date. The other sections of this act shall become operative on July 1, 1978.”

The Legislature has under subsection (1) of section 49-705, Revised Statutes Supplement, 1977, empowered the Revisor of Statutes to substitute the proper section, article or chapter numbers for such terms as “this act”. Pursuant to and in compliance with such authority the Revisor, in codifying section 325 of LB 38, substituted “sections 28-101 to 28-1335” for the words “this act”. Subsection (1) of section 49-705 also provides that “The Revisor of Statutes shall omit all titles to acts, all enacting and repealing clauses, . . . .”; pursuant to such authority the Revisor omitted from those sections published in the statutes the repealer provisions of LB 38. In subsection (1) of section 49-705 it clearly states that changes made under such subsection “shall not alter the sense, meaning or effect of any act of the Legislature”.

The case of *Shames v. State*, 192 Neb. 614, 223 N.W.2d 481 may be relevant to this situation. In that case “The report of the Statutes

Commission in 1943 deleted the phrase 'this article' which appeared in the 1941 counterpart of section 76-408 (C. S. 1943, s. 76-503) and substituted 'sections 76-403, 76-405, and 76-411,' even though the 'article' included what is now sections 76-401 and 76-402, R. R. S. 1943. The notes indicate that this change was made in the interests of 'definiteness'. See notes in the Report of the Statute Commission, Vol. III, Part X.

The Statute Commission appears to have inadvertently narrowed the scope of the right to compensation as provided in section 76-408, R. R. S. 1943, when it made the aforementioned substitution."

The court stated that "This revision was never intentionally altered by the Legislature" and quoted a previous decision as follows: "'A mere change of phraseology, or punctuation, or the addition or omission of words in the revision or codification of statutes, does not necessarily change the operation or effect thereof, and will not be deemed to do so unless the intent to make such change is clear and unmistakable. \* \* \* No presumption arises from changes of this character that the revisers or the legislature in adopting the revision intended to change the existing law; but the presumption is to the contrary, unless an intent to change it clearly appears.' 59 C. J. 894." (Emphasis supplied.)

In the case of State v. Nance, 197 Neb. 257, 248 N.W.2d 339 the court in construing a penal statute stated that "It is a fundamental rule of statutory construction that if possible a court will try to avoid a construction which leads to absurd, unjust, or unconscionable results. A sensible construction will be placed upon a statute to effectuate the object of the legislation rather than a literal meaning that would have the effect of defeating the legislative intent. State v. Saltzman, 194 Neb. 525, 233 N.W.2d 914."

It is the intent of this analysis that the Legislature go on record as:

(1) Opposing the view that a special session of the Legislature is needed to correct a technical concern with the operative date of the Nebraska Criminal Code;

(2) Objecting to any precedent that may be set suggesting that changes made by the Revisor of Statutes in publishing the statutes shall have any legal significance or that the Revisor may in any manner alter the meaning or effect of any act of the Legislature; and

(3) Reaffirming the position that a statute should be construed in the context of the object sought to be accomplished, the evils and mischief sought to be remedied, and the purpose to be served and that a distorted interpretation should not be given to a statute when the intent of the Legislature is clear.

**NOTICE OF COMMITTEE HEARINGS**  
**Appropriations**

LB 4      Tuesday, June 20, 1978      9:00 a.m.

(Signed)    Jerome Warner, Chairman

**Government, Military and Veterans Affairs**

LB 2      Tuesday, June 20, 1978      1:30 p.m.

LB 9      Tuesday, June 20, 1978      1:30 p.m.

(Signed)    Dennis Rasmussen, Chairman

**Committee on Committees**

June 8, 1978

The Committee on Committees will meet at 12:00 Noon on Wednesday, June 21, 1978 in Room 2102 of the State Capitol for the purpose of hearing appointments submitted by Governor J. James Exon, as follows:

Gregory W. Kallos - State Board of Health

S. R. Chaulk - State Board of Health

Wally Barnett, Jr. - State Fire Marshall

Nancy Van Pelt - Nebraska Arts Council

Irving R. Dana - Nebraska Arts Council

Forrest F. Combs, "Woody"

Motor Vehicle Industry Licensing Board

Dempsey McNeil - Nebraska Natural Resources Commission

(Signed)    John S. Savage, Chairman

**Rules**

Mr. DeCamp announced the Rules Committee will meet Monday, June 19, 1978 at 12:00 Noon in Room 1019.

**Constitutional Revision and Recreation**

LB 7	Monday, June 19, 1978	9:00 a.m.
LB 8	Monday, June 19, 1978	A.M.
LB 10	Monday, June 19, 1978	A.M.
LB 16	Monday, June 19, 1978	A.M.
LB 14	Monday, June 19, 1978	P.M.
LR 1	Monday, June 19, 1978	P.M.

(Signed) G. Koch, Chairman

**Revenue**

LB 1	Monday, June 19, 1978	1:30 p.m.
LB 3	Monday, June 19, 1978	1:30 p.m.
LB 5	Monday, June 19, 1978	1:30 p.m.
LB 6	Monday, June 19, 1978	1:30 p.m.
LB 11	Monday, June 19, 1978	1:30 p.m.
LB 13	Monday, June 19, 1978	1:30 p.m.
LB 15	Monday, June 19, 1978	1:30 p.m.

Continue Tuesday, June 20, 1978 9:00 a.m.

(Signed) Orval Keyes, Chairman

**RESOLUTION****LEGISLATIVE RESOLUTION 5.**

Introduced by Merz, 1st District.

WHEREAS, President Carter has announced that he will allow an increased number of imported beef products to be brought into this country; and

WHEREAS, such beef products are not produced under the same exacting health standards as domestic beef; and

WHEREAS, such beef products are of an inferior quality as compared to domestic beef; and

WHEREAS, such beef products unfairly depress domestic beef prices.

NOW, THEREFORE BE IT RESOLVED BY THE MEMBERS OF THE FIRST SPECIAL SESSION OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA:

That all restaurants and grocery stores selling imported beef products for human consumption be strongly urged to post large signs informing the public that such products are being sold on the premises.

Laid over.

Messrs. Nichol and Koch asked unanimous consent to be excused. No objections. So ordered.

### **SPEAKER'S ORDER**

Speaker Luedtke requested when we adjourn today, we adjourn until Wednesday, June 21, 1978.

Mr. Lamb moved to amend the Speaker's Order as follows:

The Legislature remain in session June 9 and June 12 through June 16 in order to deal with the criminal code.

Mr. F. Lewis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 8 nays, and 16 not voting.

Mr. Lamb moved for a Call of the House. The motion prevailed with 18 ayes, 10 nays, and 21 not voting.

Mr. Lamb requested a record vote.

Voting in the affirmative, 17:

Emry	Duis	Kennedy	Maresh	Savage
Carsten	E. Dvorak	Kremer	Moylan	
Cope	Hefner	Labeledz	Murphy	
Cullan	Kahle	Lamb	Rasmussen	

Voting in the negative, 22:

Brennan	Hasebroock	Marvel	Reutzel	Venditte
Burrows	Keyes	Maxey	Rumery	Warner
DeCamp	F. Lewis	Merz	Schmit	
Fowlér	R. Lewis	Mills	Simon	
Goodrich	Luedtke	Newell	Stoney	

Present and not voting, 3:

Chambers    George'    Kelly

Excused and not voting, 7:

Bereuter    D. Dworak    Koch    Nichol  
Clark    Fitzgerald    Marsh

The Lamb motion lost with 17 ayes, 22 nays, 3 present and not voting, and 7 excused and not voting.

### VISITORS

The President introduced Malcolm Joel Barnett, representing Regional Office of the U.S. Commission on Civil Rights; Michael B. Adams, Omaha-Chairperson, Nebraska Advisory Committee to the U.S. Civil Rights Commission; and Charles B. Washington, Omaha member of Nebraska Advisory Committee to the U.S. Civil Rights Commission.

### ADJOURNMENT

At 12:26 p.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m., Wednesday, June 21, 1978.

**SECOND DAY - JUNE 21, 1978****LEGISLATIVE JOURNAL****EIGHTY-FIFTH LEGISLATURE  
FIRST SPECIAL SESSION****SECOND DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, June 21, 1978

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

**PRAYER**

The prayer was offered by Reverend Wallace E. Easter, Associate Pastor, from Westminster Presbyterian Church, Lincoln, Nebraska.

Our God and heavenly Father,  
Keep us from a worship of the lips, while our hearts are far away.

When we think of the great people out of the past who, by their trust in Thee, helped to give our Nation and this State a glorious heritage, remind us that we honor them best when we follow their good example.

May this minute of prayer find each of us, in his own way, reaching out for Thy guidance and help. We ask not for tasks more suited to our strength, but for strength more suited to our tasks.

Give us faith to look with fearless eyes beyond the chaos and uncertainty of our world and time, believing that out of our efforts — ineffectual as they seem — shall come, with Thy help, the time of peace with justice. . . the time of true brotherhood.

By Thy grace, give us the will to work together, and may Thy purpose for us be fulfilled in some small way by that which we do today. For Thy Name's sake. Amen.

**ROLL CALL**

The roll was called and all members were present except Messrs. Chambers, D. Dworak, Fowler, and R. Lewis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 18, line 25, add "DeCamp, 40th District".  
The Journal for the First Day was approved as corrected.

**STANDING COMMITTEE REPORTS**  
**Constitutional Revision and Recreation**

**LEGISLATIVE BILL 7.** Indefinitely postponed.  
**LEGISLATIVE BILL 8.** Indefinitely postponed.  
**LEGISLATIVE BILL 10.** Indefinitely postponed.  
**LEGISLATIVE BILL 14.** Indefinitely postponed.  
**LEGISLATIVE BILL 16.** Indefinitely postponed.

**LEGISLATIVE RESOLUTION 1.** Placed on General File.

**Committee Statement on LR 1****Constitutional Revision and Recreation Committee**

**INTENT** — LR 1 states that a county which is one of the counties containing a multi-county taxing district and which reappraised property within two years of the other counties shall provide the same percentage of the taxing districts budget as before reappraisal LR 1 provides that the State Board of Equalization and Assessment shall have authority to establish separate tax levies to accomplish the above provision. This power to establish separate tax levies extends to not later than January 1, 1983, at which time a current reappraisal of lands in all counties shall be effected and maintained.

**PROPOSERS** — Appearing in favor of LR 1 were Senator Jerome Warner, the introducer and Jerry O'Keefe, representing the Nebraska Stock Growers Association.

**OPPOSERS** — None

**AMENDMENTS** — None

**COMMITTEE ACTION** — On a vote of four to three, the members of the Constitutional Revision and Recreation Committee voted to advance LR 1 to General File. Voting aye were Senators Koch, Carsten, Emry, and Reutzel. Voting nay were Senators Labedz, Fitzgerald, and Dvorak.

(Signed) Jerry D. Koch, Chairman



**Government, Military and Veterans Affairs**

**LEGISLATIVE BILL 2.** Placed on General File as amended.  
Standing Committee amendment to LB 2:

1. On page 2, line 7 strike "five" and insert "seven".

**LEGISLATIVE BILL 9.** Indefinitely postponed.

(Signed) Dennis L. Rasmussen, Chairman

**ATTORNEY GENERAL'S OPINION**

Opinion No. 253

June 7, 1978

Dear Senator DeCamp:

You have requested our opinion with regard to some legislation that you intend or may intend to introduce. In essence, the proposal which you have submitted to our office for review is a constitutional amendment to Article VIII of the Constitution of the State of Nebraska which would add six new sections, 12, 13, 14, 15, 16 & 17. The proposal you have submitted is identical to the petition being circulated at the current time through the initiative process for placement on the November ballot.

In your first question you ask whether or not any constitutional problems arise by virtue of this proposal. In analyzing this question it is obvious that your proposal is intended to amend the Constitution, it begins:

"That Article VIII of the Constitution of the State of Nebraska be amended by adding six new sections, to be numbered 12, 13, 14, 15, 16 and 17, as follows."

As a general rule, a constitutional provision inserted in the Constitution by a vote of the people is not unconstitutional. The sole exception might arise in an instance where the provision adopted directly and completely conflicts with another existing provision of the Constitution. Even in those instances however the courts will generally attempt to reconcile the conflicting provisions so as to give effect to each of the provisions. We have examined the proposal you have submitted and we have examined the Nebraska Constitution. We find no direct conflict existent. It is therefore our opinion that no constitutional questions arise by virtue of the proposed amendment to the Constitution of the state which you have submitted for our review.

In your second question you also ask that we examine this proposal from the federal constitutional standpoint. In addition, you also point out that you desire a reply as quickly as possible. As we all are aware, the Legislature is to convene in special session on Thursday, June 8, 1978. It is not possible to conduct thorough research with respect to the second question you have raised in the limited time available to our office in view of the impending meeting of the special session of the Legislature. Therefore, we can only generally say that no patent constitutional problems are evident in the proposal. Therefore, we must defer answering your second question at the present time.

If we misunderstand your intent to draft legislation similar to the proposed constitutional amendment, but in the form of legislation as opposed to an amendment, it would be necessary for us to review the specific proposal you have in mind in order to render an opinion on its constitutionality.

Very truly yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Patrick T. O'Brien  
Assistant Attorney General

PTO:pjs

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

#### **SELECT COMMITTEE REPORT** **Rules Committee**

The Rules Committee met Monday, June 19, 1978, and acted favorably on the proposed rule change submitted by Senator John DeCamp found on page 21-2 of the Legislature Journal, First Special Session.

(Signed) John W. DeCamp, Chairman

#### **UNANIMOUS CONSENT - Member Excused**

Mr. Rumery asked unanimous consent to be excused at 11:00 a.m. No objections. So ordered.

**GENERAL FILE**

**LEGISLATIVE BILL 12.** Title read. Considered.

Mr. F. Lewis moved to adjourn sine die. The motion lost with 5 ayes, 29 nays, and 15 not voting.

Advanced to E & R for Review with 44 ayes, 0 nays, 2 present and not voting, and 3 excused and not voting.

**MOTION - Rule Change**

Mr. DeCamp moved the adoption of the rule change found in the Journal on pages 21-22.

Mr. Kelly requested a ruling of the Chair on whether this rule change can be taken up under the Call of the Special Session.

The Chair ruled the rule change is a housekeeping measure and could be taken up.

Mr. Bereuter moved to amend the rule change so it becomes effective on January 1, 1979.

The amendment was adopted with 35 ayes, 0 nays, and 14 not voting.

The rule change, as amended, was adopted with 34 ayes, 0 nays, and 15 not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 2.** Read. Considered.

LR 2 was adopted with 37 ayes, 0 nays, and 12 not voting.

Mr. F. Lewis asked unanimous consent that a copy of LR 2 be sent to the Governor. No objections. So ordered.

**LEGISLATIVE RESOLUTION 5.** Read. Considered.

LR 5 was adopted with 39 ayes, 1 nay, and 9 not voting.

**GENERAL FILE****LEGISLATIVE RESOLUTION 1. Read. Considered.**

Mr. Mills requested a ruling of the Chair whether LR 1 is within the Call of the Special Session.

The Chair ruled LR 1 proposing a constitutional amendment is not within the Call.

Mr. Warner moved to debate LR 1 on General File.

The Chair ruled the motion out of order.

Mr. Warner challenged the ruling of the Chair.

The question is, "Shall the Chair be overruled?" The motion prevailed with 28 ayes, 14 nays, and 17 not voting.

The Chair was overruled.

Mr. Koch offered the following amendment:

To amend LR 1, page 3, line 8 after Jan. 1, strike 1983 and insert 1981.

The Koch amendment was adopted with 29 ayes, 0 nays, 19 present and not voting, and 1 excused and not voting.

Mr. Murphy offered the following amendment:

To amend on page 2, line 24 - strike "personal tangible", insert the word "real".

The Murphy amendment was adopted with 31 ayes, 1 nay, 15 present and not voting, and 2 excused and not voting.

Advanced to E & R for Review with 27 ayes, 6 nays, 14 present and not voting, and 2 excused and not voting.

**EXPLANATION OF VOTE**

Had I been present on June 8, 1978, I would have co-introduced LR 3 and voted "aye" for LR 3.

(Signed) Douglas Bereuter

**UNANIMOUS CONSENT - Print in Journal**

Mr. Simon asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

1. On page 2, at the end of line 3, insert  
“, except as established under Chapter 31, article 7,”.

**GENERAL FILE**

**LEGISLATIVE BILL 2.** Title read. Considered.

Mr. Rasmussen asked unanimous consent to have LB 2 laid over.

Speaker Luedtke objected.

Mr. Rasmussen withdrew his request.

Standing Committee amendment found in this day's Journal lost with 18 ayes, 14 nays, 15 present and not voting, and 2 excused and not voting.

**VISITORS**

The President introduced James Betka, Richard Krupicka, and Roger Pribyl of Milligan, Nebraska.

**RECESS**

At 11:48 p.m., on a motion by Mr. Simon, the Legislature recessed until 2:00 p.m.

**AFTER RECESS**

The Legislature reconvened at 2:00 p.m., President Whelan presiding.

**ROLL CALL**

The roll was called and all members were present except Messrs. Carsten, Chambers, DeCamp, Fowler, Goodrich, Kahle, Rasmussen, and Rumery who were excused until they arrive.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 2 and LR 5.

**SELECT COMMITTEE REPORTS****Enrollment and Review**

**LEGISLATIVE BILL 12.** Placed on Select File as amended.

E & R amendment to LB 12:

1. On page 2, lines 2 and 10, insert “, as amended by section 54, Legislative Bill 748, Eighty-fifth Legislature, Second Session, 1977” after “1977”.

**LEGISLATIVE RESOLUTION 1.** Placed on Select File as amended.

E & R amendment to LR 1:

(Note: General File and E & R amendments refer to the printed resolution.)

1. In lieu of the Murphy amendment, on page 2, line 24, strike “personal tangible” and insert “~~personal~~ tangible real”.

2. On page 2, line 8, strike “(1)” and reinsert the same after “that”.

(Signed) Samuel K. Cullan, Chairman

**RESOLUTION****LEGISLATIVE RESOLUTION 6.**

Introduced by R. Lewis, 38th District; Kelly, 35th District.

WHEREAS, the annual “Miss Nebraska” contest was recently held; and

WHEREAS, Miss Guylen Remmenga of Lexington, Nebraska was named “Miss Nebraska” for 1978; and

WHEREAS, while serving as Miss Nebraska, Miss Remmenga will make many public appearances; and

WHEREAS, in attending such public appearances Miss Remmenga will be representing the State of Nebraska and be hostess to many people.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That Guylen Remmenga be named "Official State Hostess" for 1978.
2. That the Clerk of the Legislature send a copy of this resolution to Miss Remmenga.

Laid over.

### UNANIMOUS CONSENT - Member Excused

Mr. Marvel asked unanimous consent to be excused until he returns. No objections. So ordered.

### GENERAL FILE

**LEGISLATIVE BILL 2.** Title read. Considered.

Mr. Koch asked unanimous consent to add his name as a co-introducer to LB 2. No objections. So ordered.

Mr. Mills asked unanimous consent to be excused. No objections. So ordered.

Mr. Simon offered the following amendment:

1. Insert new sections as follows:

"Sec. 8. That section 23-925, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-925. Each governing body, after the filing of the proposed budget statement with its secretary or clerk, shall each year conduct a public hearing on such proposed budget statement. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least five days prior to the date set for hearing, in a newspaper of general circulation within the governing body's jurisdiction or by direct mailing of the notice to each resident within the community; Provided, that when the total operating budget, not including reserves, does not exceed ten thousand dollars per year, the proposed budget summary may be posted at the governing body's principal headquarters. The proposed budget statement shall include a priority list of all the programs and services provided and the dollar amount and percentage of increase or decrease from the previous year. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such

hearing. The amount to be received from taxation shall be certified to the levying board after the proposed budget statement is adopted, or is amended and adopted as amended, and if the levying board shall represent more than one county, a member or a representative of the governing board shall appear and present its budget at the hearing of each county in which is located a major area of the county affected by its budget. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

Sec. 9. That original section 23-925, Reissue Revised Statutes of Nebraska, 1943, is repealed.”.

2. Renumber original section 8 as section 10.

The amendment lost with 10 ayes, 17 nays, 12 present and not voting, and 10 excused and not voting.

Mr. Newell offered the following amendment:

Add a Sunset provision effective Jan. 1, 1981

Mr. Clark moved the previous question. The question is, “Shall the debate now close?” The motion lost with 21 ayes, 16 nays, and 12 not voting.

The Newell amendment lost with 5 ayes, 24 nays, 12 present and not voting, and 8 excused and not voting.

Mr. Venditte asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for Review with 25 ayes, 11 nays, 8 present and not voting, and 5 excused and not voting.

### **SELECT COMMITTEE REPORTS**

#### **Committee on Committees**

June 21, 1978

The Committee on Committees desires to report favorably upon the appointments and reappointments listed below which were submitted by Governor J. James Exon. The Committee suggests that the



appointments and reappointments be confirmed and suggests a record vote.

Forrest F. "Woody" Combs  
Motor Vehicle Industry Licensing Board

Dr. Gregory W. Kallos  
State Board of Health

Dr. S. R. Chaulk  
State Board of Health

Dempsey McNeil  
Nebraska Natural Resources Commission

Nancy Van Pelt  
Nebraska Arts Council

Irving R. Dana  
Nebraska Arts Council

Committee Vote: For: (11) Senators Savage, Marsh, Burrows, F. Lewis, Koch, Labedz, Moylan, Dworak, Murphy, Cope, and Mills. Against: None. Excused and Not Voting: (1) Senator Rasmussen. Absent and Not Voting: (1) Senator DeCamp.

June 21, 1978

The Committee on Committees desires to report favorably upon the appointment listed below which was submitted by Governor J. James Exon. The Committee suggests that the appointment be confirmed and suggests a record vote.

Wallace "Wally" Barnett, Jr.  
State Fire Marshal

Committee vote: For: (11) Senators Savage, Marsh, Burrows, F. Lewis, Koch, Labedz, Moylan, Dworak, Murphy, Cope, and Mills. Against: None. Excused and Not Voting: (1) Senator Rasmussen. Absent and Not Voting: (1) Senator DeCamp.

Respectfully submitted,  
(Signed) John Savage, Chairman

**RESOLUTIONS****LEGISLATIVE RESOLUTION 7.**

Introduced by Chambers, 11th District.

WHEREAS, there continues to be a growing interest in and concern for the language in statutes, ordinances, regulations, and legal documents in general; and

WHEREAS, a trend is developing requiring that statutes, ordinances, regulations, and similar laws be drafted with non-technical language and in a clear, coherent, and nondiscriminatory manner; and

WHEREAS, all human conduct in our society is subject to and influenced by law and legal judgment; and

WHEREAS, laws with derogatory implications may encourage disrespect for the law and the rights of individuals; and

WHEREAS, law provides a means by which general rules for the direction of human conduct are consciously and deliberately made by government; and

WHEREAS, statutes, ordinances, and similar laws are the structural device through which the determined principle is communicated for regulation of private conduct; and

WHEREAS, ideas affect language and language affects thinking and thinking affects conduct.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature urges all public bodies to eliminate from their statutes, ordinances, or similar laws racially demeaning language.

Laid over.

**LEGISLATIVE RESOLUTION 8.**

Introduced by Chambers, 11th District.

WHEREAS, the Nebraska State Legislature is committed to securing for all individuals within the State of Nebraska equal opportunity without unlawful discrimination because of race, religion, color, sex, age, national origin, or disability; and

WHEREAS, the Nebraska State Legislature is committed to providing equal employment opportunity for all present and

prospective state employees, without unlawful discrimination because of race, religion, color, sex, age, national origin, or disability; and

WHEREAS, individuals and residents of the State of Nebraska have the right to take lawful corrective action when they believe that they have suffered unlawful employment discrimination, and are entitled to a speedy and fair resolution of such charges; and

WHEREAS, an affirmative and vigorous program to assure fair and impartial treatment for all and to make use of the full productive capabilities and talents of all Nebraska citizens is in the best interest of the state; and

WHEREAS, the Nebraska State Advisory Committee to the United States Commission on Civil Rights has released a report which discusses the shortcomings of state government in reference to affirmative action plans and programs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Government, Military and Veterans Affairs Committee serve as an interim study committee to study and propose specific legislation to deal with the state's affirmative action efforts.

2. That the committee make its report to the next regular session of the Legislature with its recommendations.

Referred to the Executive Board.

### UNANIMOUS CONSENT - Print in Journal

Mr. Chambers asked unanimous consent to print the following in the Journal. No objections. So ordered.

### ORDINANCE #11

An ordinance prohibiting the discharge of firearms and concealed weapons within the corporate limits of the village of LaVista, Sarpy County, Nebraska, except under certain conditions, prescribed therein: prohibiting the discharge of blank cartridges, toy cannons, toy arms and slingshots loaded with leaded or other danderous(sic) missiles within the said limits: carrying concealed weapons prohibiting the sale or other phrotechnic displays except under certain conditions: prescribing the time when this ordinance shall be in full force and take effect: and providing the penalty for the violation of the several provisions of this ordinance.

Be it ordained by the Chairman and Board of Trustees of the village of LaVista, Nebraska:

**Section 1. FIREARMS NOT TO BE DISCHARGED IN CITY LIMITS:** No person except an officer of the law in the discharge of his duty shall fire or discharge any gun, pistol, fouling piece or other firearm within the corporate limits of this village.

**Section 2. AIR GUN NIGGER SHOOTER, BLANK CARTRIDGES OR SLINGSHOT LOADED WITH DANGEROUS MISSILE NOT TO BE DISCHARGED IN CITY LIMITS: VIOLATIONS, PENALTY.** It shall be unlawful for any person or persons to discharge, or cause to be discharged, any toy pistol, toy cannon, air gun or any other arm or arms, blank cartridge, or any nigger shooter or slingshot loaded with rock or leaden or other dangerous missiles, at any time or under circumstances within the limits of this Village. Any person violating the provisions of this Section or of the preceding Section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding twenty five (\$25.00) dollars for each offense, and shall stand committed to the City Jail until such fine and costs be paid, secured or otherwise discharged according to law.

**Section 3. TORPEDOES, TOY CANNON, FIREWORKS AND FIRECRACKERS, SALE AND DISCHARGE PROHIBITED: EXCEPTIONS:** It shall be unlawful for any person within the corporate limits of this village to sell, ignite or cause to be exploded any torpedoes, fireworks, roman candles, rockets or any kind of fireworks or other pyrotechnic displays whatever, or any other dangerous, combustible substances or thing except on special occasions with the permission of the Chairman and the Board of Trustees, governed in all cases by the statutes of this state, and under such circumstances that their ignition or discharge they will not do damage to person or property.

**Section 4. CONCEALED WEAPONS: PENALTIES:** It shall hereafter be unlawful for any person or persons within the corporate limits of this Village to carry about the person any concealed weapon, pistol, revolver, bowie-knife, billy, slingshot, metal knuckles or any other dangerous or deadly weapon of any kind, except only officers of the law in the discharge(sic) of their duties; providing that the Mayor of this Village may grant a license to carry concealed weapons to any person he may think proper, and revoke the same at will. Any person, persons, firm, company or corporation, who shall be convicted of violating any of the provisions of this Section for which penalty is not specially provided, shall upon conviction there of, be fined in any sum

not less than One (\$1.00) dollar nor more than one hundred (\$100.00) dollars, and shall stand committed to the City Jail until said fine and costs of prosecution are paid, secured or otherwise discharged according to law.

Section 5. WHEN OPERATIVE: This ordinance shall be in full force and take effect from and after its passage, approval and publication according to law.

Passed and approved this 21st day of June, 1960.

George J. Spreier, Chairman, Village of LaVista

Attest: Donald Obrecht, Village Clerk, Village of LaVista.

### STANDING COMMITTEE REPORTS

#### Revenue

LEGISLATIVE BILL 1. Placed on General File.  
LEGISLATIVE BILL 5. Placed on General File.  
LEGISLATIVE BILL 3. Indefinitely postponed.  
LEGISLATIVE BILL 11. Indefinitely postponed.

(Signed) Orval A. Keyes, Chairman

### POINT OF PERSONAL PRIVILEGE

Mr. Newell requested a point of personal privilege regarding procedures within the Revenue Committee.

The Chair overruled the point of personal privilege.

Mr. Newell challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?" The motion lost with 14 ayes, 19 nays, and 16 not voting.

The Chair was sustained.

Mr. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

### MOTION - Recommit Bills

Mr. Newell moved to recommit LB 1, 5, 3 and 11 to the Revenue Committee.

Mr. F. Lewis offered the following amendment to the Newell motion:

Amend the Newell motion by striking LB 5.

Mr. Newell withdrew his motion.

**MOTION - Place LB 14 on General File**

Mr. Schmit moved to place LB 14 on General File notwithstanding the committee action pursuant to Rule 3, Sec. 12.

Motion pending.

**UNANIMOUS CONSENT - Print in Journal**

Mr. F. Lewis asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

**AMENDMENTS TO LB 1**

1. Strike the original sections and insert the following:

“Section 1. Every political subdivision of the state authorized to levy a tax or cause a tax to be levied shall limit its budget for the 1979-80 fiscal year to an amount not to exceed five per cent more than its budget for the 1978-79 fiscal year, except as provided in sections 2 to 5 of this act; and for each fiscal year after the 1979-80 fiscal year, its budget shall not exceed the previous fiscal year's budget by more than five per cent, except as provided in sections 2 to 5 of this act. Budget shall mean and include all funds except such funds as are used for employer's contributions under the Federal Insurance Contributions Act and as are used to pay interest on or for retiring, refinancing, or servicing bonded indebtedness during the upcoming fiscal year, and amount referred to in section 5 of this act. No tax shall be levied or an amount budgeted in excess of the limitation contained in this section for the purpose of acquiring buildings, the erection of buildings, and additions to buildings without a majority vote of the qualified electors voting in an election called for such purpose. No election shall be required as to any buildings acquired, erected, or added to under the provisions of Article XIII, section 2 of the Constitution.

Sec. 2. Any political subdivision of the state authorized to levy a tax or cause a tax to be levied which experiences a growth in population in excess of five per cent during the calendar year per annual

7 official estimates may increase its budget for the fiscal  
8 year which follows by the same percentage increase as the  
9 percentage increase in the population, up to a population  
10 growth of ten per cent; and for each per cent of  
11 population growth in excess of ten per cent may increase  
12 its budget one half of one per cent for each per cent of  
13 increase in the population in excess of ten per cent.  
14 School districts' populations shall be measured by  
15 student enrollments. The Department of Revenue shall  
16 adopt rules and regulations to prescribe the procedures  
17 for political subdivisions to calculate official  
18 population estimates.

19 Sec. 3. Each year, the Legislature may by  
20 resolution suspend, by a four-fifths vote, the budget  
21 limitations provided for in sections 1 and 2 of this act.  
22 In the resolution to suspend, the Legislature shall set  
23 forth (1) the reasons for the suspension, (2) the  
24 political subdivisions affected by the suspension, and  
25 (3) the allowed increase in excess of the limitations for  
26 the upcoming fiscal year provided for in sections 1 and 2  
27 of this act. Any political subdivision affected under  
1 such suspension may include the allowed increase in its  
2 budget for the fiscal year following such year of  
3 suspension. No resolution suspending budget limitations  
4 shall be effective for more than one fiscal year.

5 Sec. 4. If the governing body of any political  
6 subdivision of the state authorized to levy a tax or  
7 cause a tax to be levied determines that a budget higher  
8 than that permitted in section 1, 2, or 3 of this act is  
9 needed, it shall by resolution call for a special  
10 election of such political subdivision for that purpose.  
11 The budget increase above the limit permitted in section  
12 1, 2, or 3 of this act may be adopted if approved by a  
13 majority of the qualified electors voting in such  
14 election. The resolution calling for the election, the  
15 election notice, and the proposition appearing in the  
16 election ballot shall refer to section 1, 2, or 3 of this  
17 act, and shall state that the limitation contained  
18 therein is proposed to be exceeded and show the proposed  
19 increase in the budget amount in terms of dollars and  
20 percentages over the limitation as computed in section 1,  
21 2, or 3 of this act, and in terms of dollars and the per  
22 cent of increase over the current budget. All such  
23 elections shall be held on the third Tuesday in July of  
24 the year in which taxes will be levied to fund the  
25 budget. The form of submission upon the ballot shall be  
26 as follows:

- 1 For exceeding the budget limit.  
2 Against exceeding the budget limit.  
3 Sec. 5. To the extent any budget category or  
4 revenue source is increased as the result of a decision  
5 based upon the provisions of the Constitution of the  
6 United States, by a court of competent jurisdiction, the  
7 amount of the increase in the budget limit or revenue  
8 source for that category shall not be considered a part  
9 of the budget for purposes of section 1, 2, or 3 of this  
10 act.  
11 Sec. 6. Since an emergency exists, this act  
12 shall be in full force and take effect, from and after  
13 its passage and approval, according to law.”.  
14 2. In the title strike lines 2 to ..... and  
15 insert:  
16 “FOR AN ACT relating to revenue; to provide a limitation  
17 on the budgets of political subdivisions; to  
18 provide an exception; to provide for an  
19 election; and to declare an emergency.”.

Mr. Newell asked unanimous consent to print the following letter in the Journal. No objections. So ordered.

June 21, 1978

The Honorable Paul Douglas  
Attorney General  
State Capitol  
Lincoln, NE 68509

Dear Mr. Douglas:

I request your opinion on the constitutionality of considering LB 1 in this Special Session of the Eighty-fifth Legislature.

Noting section two of the Governor's proclamation, he called upon the legislature to “enact spending limitations on government budget.” I question whether or not LB 1 appropriately suits the parameters of this proclamation.

Specifically, I refer to Section 1, subsection, 1 of LB 1. This section discusses the proposed “budget” limitation and limits its application to only those expenditures funded by ad valorem taxes. Given this provision, the bill appears to be outside of the call since it places a limit on a particular revenue source rather than an actual limitation on government budgets.



It is my concern that for whatever action the legislature takes, there must exist some reasonable assurances that such actions will not become constitutionally suspect. I fear that if such complications developed, it would fuel the energies of the petition drive for a constitutional lid or require the additional cost of another special session of the legislature.

Your most immediate attention and clarifying response would be appreciated.

Sincerely,  
(Signed) Sen. Dave Newell

ret

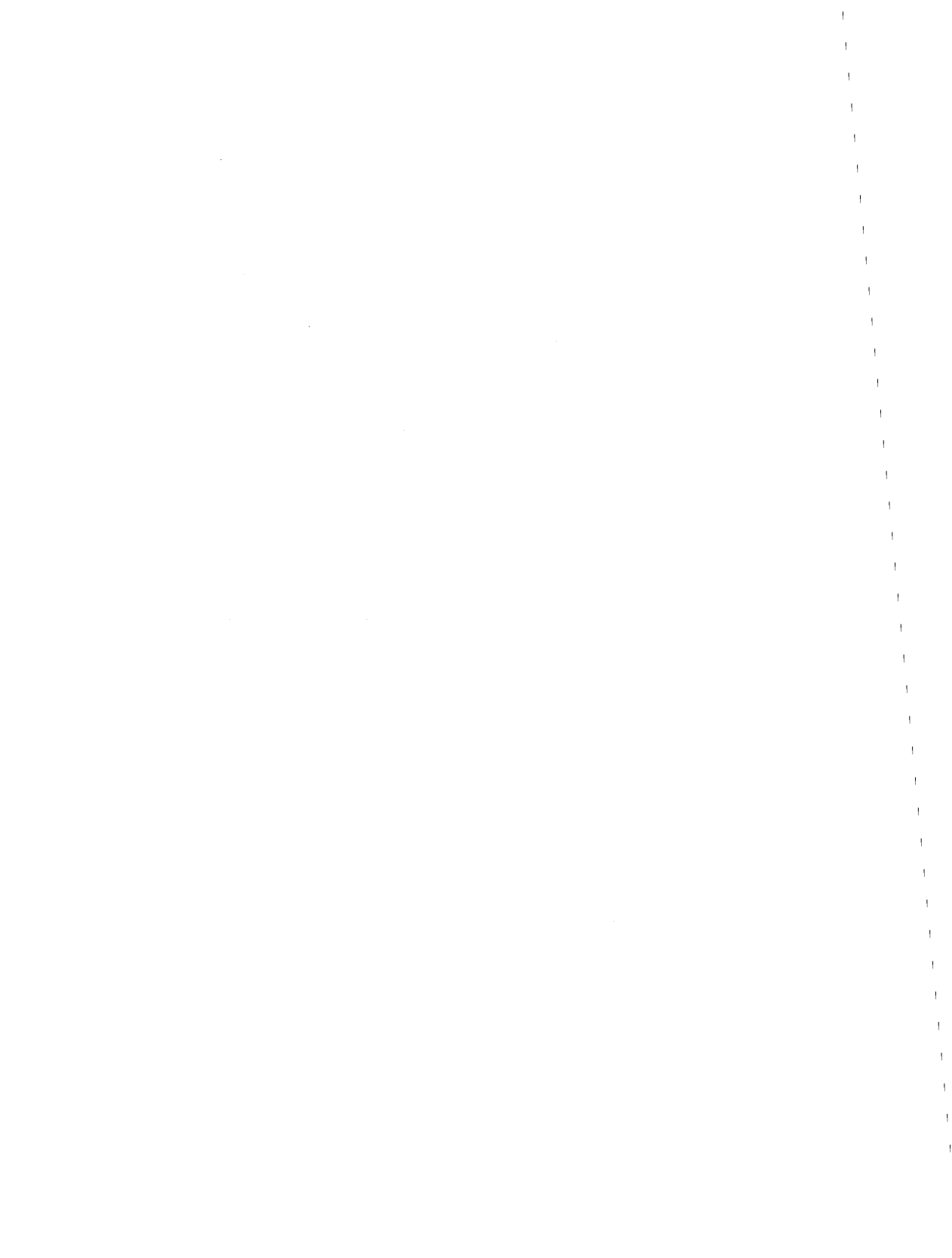
### VISITORS

The President introduced former Senator and Mrs. Irving Wiltse of Falls City, Nebraska; youth group from Merna, Nebraska including sponsors Mrs. Randy Sailors, Mr. and Mrs. Bill Adams, and Mr. and Mrs. Dave Lamb.

### ADJOURNMENT

At 4:07 p.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m., Thursday, June 22, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature



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**THIRD DAY - JUNE 22, 1978**

**LEGISLATIVE JOURNAL**

**THIRD DAY - JUNE 22, 1978**  
**LEGISLATIVE JOURNAL**  
**EIGHTY-FIFTH LEGISLATURE**  
**FIRST SPECIAL SESSION**

**THIRD DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, June 22, 1978

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

**PRAYER**

The prayer was offered by Rev. Wallace E. Easter, Associate Pastor, Westminster Presbyterian Church, Lincoln, Nebraska.

God our heavenly Father: keep us from praying with half a heart, or listening with half a mind; and if we do not feel as close to You as we once did, may we make no mistake about who has moved.

You hold the whole world in Your hands; Your love is equally for all people; and if we feel frustrated in our efforts to make our laws work for the good of all people, how must You feel that we so long and so willfully refuse to live in Your love and by Your laws?

You gave us life, and at the same time gave us liberty. Help us who love liberty to keep it in these days when it is being prostituted and destroyed. And help us to see that when other people lose their freedom, our own freedom is threatened.

Add Your blessing, we pray, to the work of the State Legislature, and may they meet the challenges, the problems and the frustrations of this hour with honesty, good humor, and courage. Amen.

**ROLL CALL**

The roll was called and all members were present except Mrs. Labeledz, Messrs. Marvel, Moylan, Schmit, Goodrich, and R. Lewis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the Second Day was approved.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**LEGISLATIVE BILL 2.** Placed on Select File as amended.  
E & R amendments to LB 2:

1. On page 2, lines 15 and 21, insert "on the question" after "voting"; and in line 18 strike "board" and insert "body".
2. On page 3, line 7, strike "1 or 2" and insert "2 or 3".
3. On page 4, line 7, strike the semicolon and insert a comma.

(Signed) Samuel K. Cullan, Chairman

**STANDING COMMITTEE REPORT**  
**Appropriations**

**LEGISLATIVE BILL 4.** Placed on General File.

(Signed) Jerome Warner, Chairman

**REPORT OF REGISTERED LOBBYISTS**

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of May 31, 1978. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick O'Donnell  
Clerk of the Legislature

Baer, John R. F. - Illinois (withdrawn 5/9), Schwinn Bicycle Company  
Blazek, D. R. - Lincoln (withdrawn 5/22), Lincoln Electric System  
Brockmeier, Herman A. - Lincoln (withdrawn 5/15), NBC Company  
Garramone, Daniel J. - Illinois (withdrawn 5/11), Schwinn Bicycle Company

Knudsen, Berkheimer, Endacott & Beam:

Ruth, Larry L. (withdrawn 5/9), Manufacturers Life Insurance Company, United States Fidelity and Guaranty Company

Lott, Roger C. - Lincoln (withdrawn 5/19), Common Cause-Nebraska

Nuss-Elrod, Carol - Omaha (withdrawn 5/10), Nebraska Wing, Civil Air Patrol, United Indians of Nebraska

Townley, Jay C. - Illinois (withdrawn 5/11), Schwinn Bicycle Company

### **MOTION - Approve Appointments**

Mr. Savage moved the adoption of the Committee on Committees report of the following Governor appointments for Forrest F. "Woody" Combs, Dr. Gregory W. Kallos, Dr. S. R. Chaulk, Dempsey McNeil, Nancy Van Pelt, and Irving R. Dana found in the Journal on page 43.

Voting in the affirmative, 31:

Emry	E. Dvorak	Labeledz	Newell	Simon
Bereuter	Fitzgerald	Lamb	Nichol	Stoney
Burrows	Hasebroock	Luedtke	Rasmussen	Venditte
Carsten	Hefner	Maresh	Reutzel	
Cope	Kahle	Marsh	Rumery	
Cullan	Kennedy	Maxey	Savage	
Duis	Kremer	Mills	Schmit	

Voting in the negative, 0.

Present and not voting, 14:

Brennan	DeCamp	George	Koch	Murphy
Chambers	D. Dworak	Kelly	F. Lewis	Warner
Clark	Fowler	Keyes	Merz	

Excused and not voting, 4:

Goodrich	R. Lewis	Marvel	Moylan
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The Chair declared the appointments confirmed.

Mr. Savage moved the adoption of the Committee on Committees report of the Governor appointment of Wallace Barnett found in the Journal on page 43.

Voting in the affirmative, 38:

Emry	Duis	Kennedy	Merz	Savage
Bereuter	E. Dvorak	Kremer	Mills	Schmit
Burrows	D. Dworak	Labeledz	Murphy	Simon
Carsten	Fitzgerald	Lamb	Newell	Stoney
Clark	Fowler	Luedtke	Nichol	Venditte
Cope	Hasebroock	Maresh	Rasmussen	Warner
Cullan	Hefner	Marsh	Reutzel	
DeCamp	Kahle	Maxey	Rumery	

Voting in the negative, 0.

Present and not voting, 7:

Brennan	George	Keyes	F. Lewis
Chambers	Kelly	Koch	

Excused and not voting, 4:

Goodrich	R. Lewis	Marvel	Moylan
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The Chair declared the appointment confirmed.

### SELECT FILE

**LEGISLATIVE BILL 12.** E & R amendments found in the Journal on page 40 for the Second Day were adopted.

Advanced to E & R for Engrossment.

**LEGISLATIVE RESOLUTION 1.** E & R amendments found in the Journal on page 40 for the Second Day were adopted.

Advanced to E & R for Engrossment.

Mr. Warner asked unanimous consent to bracket LR 1 on E & R for Engrossment. No objections. So ordered.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 6.** Read. Considered.

LR 6 was adopted with 35 ayes, 0 nays, and 14 not voting.

**LEGISLATIVE RESOLUTION 7.** Read. Considered.

LR 7 was adopted with 39 ayes, 0 nays, and 10 not voting.

**GENERAL FILE****LEGISLATIVE BILL 1.** Title read. Considered.

Mr. Simon offered the following amendment:

1. Insert the following new section:

“Sec. 3. To the extent that any governmental subdivision’s budget is increased as a result of (1) a decision based upon the laws or Constitution of the United States or the laws or Constitution of the State of Nebraska, by a court of competent jurisdiction, or (2) an act of Congress or the Legislature, the amount of the increase in the budget, not funded by state or federal sources, shall not be considered part of the budget for purposes of the limit prescribed by section of this act.”.

2. Renumber remaining sections accordingly.

The amendment lost with 10 ayes, 16 nays, 20 present and not voting, and 3 excused and not voting.

Mr. Rasmussen offered the following amendments:

**AMENDMENTS TO LB 1**

1. On page three reinstate the stricken matter in lines 18 to 24.

2. After reinstated line 24, insert:

“(2) At the public meeting required by subsection (1) of this section, all registered voters who are entitled to vote for members of the governing body of such political subdivision who are in attendance at such meeting shall vote on the question of whether the budget limitation prescribed by section 77-1355 shall be exceeded. The governing body of the political subdivision shall adjust the budget in accordance with the results of such vote.”

3. On page 4, reinstate lines 4 to 6, and strike the new matter in lines 12 to 26.

4. On page 5, strike the new matter in lines 1 to 17.

Mr. DeCamp offered the following amendment to the Rasmussen amendment:



To strike the 1st word "shall" in new sub-section (2) and insert "may" in the Rasmussen amendment.

The DeCamp amendment was adopted with 24 ayes, 1 nay, 22 present and not voting, and 2 excused and not voting.

Mr. D. Dworak requested a record vote on the Rasmussen amendment, as amended.

Voting in the affirmative, 10:

Chambers	Kelly	Murphy	Rasmussen	Schmit
Hefner	Marsh	Newell	Rumery	Warner

Voting in the negative, 26:

Bereuter	E. Dworak	Kennedy	Luedtke	Stoney
Brennan	D. Dworak	Koch	Mareh	Venditte
Carsten	Fitzgerald	Kremer	Maxey	
Clark	Goodrich	Labeledz	Mills	
Cullan	Hasebroock	Lamb	Nichol	
Duis	Kahle	R. Lewis	Rutzel	

Present and not voting, 11:

Emry	DeCamp	Keyes	Savage
Burrows	Fowler	F. Lewis	Simon
Cope	George	Merz	

Excused and not voting, 2:

Marvel            Moylan

The Rasmussen amendment, as amended, lost with 10 ayes, 26 nays, 11 present and not voting, and 2 excused and not voting.

Messrs. Hefner and Marvel offered the following amendment to LB 1:

#### AMENDMENTS TO LB 1

- 1        1. Insert the following new sections:
- 2        "Sec. 3. The State of Nebraska shall limit
- 3        its budget for the 1979-80 fiscal year to an amount not
- 4        to exceed seven per cent more than its budget for the
- 5        1978-79 fiscal year; and for each fiscal year after the
- 6        1979-80 fiscal year its budget shall not exceed the previous
- 7        fiscal year's budget by more than seven per cent.
- 8        Sec. 4. The Legislature may by a four-fifths

- 9 vote suspend the budget limitations provided for in section  
 10 3 of this act. When suspending the budget limitations,  
 11 the Legislature shall set forth (1) the reasons for the  
 12 suspension, (2) the department, agency, board, commission,  
 13 or institution in the state for which money is to be appro-  
 14 priated affected by the suspension, and (3) the allowed  
 15 increase in excess of the limitations for the upcoming  
 16 fiscal year. No action by the Legislature to suspend budget  
 17 limitations shall be effective for more than one fiscal year.  
 18 Sec. 5. For the purposes of sections 3 and 4  
 19 of this act, budget shall mean all funds which are appro-  
 20 priated by the Legislature, except that it shall not in-  
 21 clude any federal funds that may be appropriated.”.  
 22 2. Renumber original sections 3 and 4 as sections  
 23 6 and 7 respectively.

Mr. Lamb offered the following amendment to the Hefner-Marvel amendment:

There shall be excluded from the limitation provided by section 3 of this act any financial assistance provided by the state under the provisions of section 77-202.22, Reissue Revised Statutes of Nebraska, 1943, 79-1330 to 79-1344 and 79-4,160 to 79-4,168, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, and sections 39-2402, 77-202.30 and 77-202.42, Revised Statutes Supplement, 1977.

Mr. Cullan moved the previous question. The question is, “Shall the debate now close?” The motion prevailed with 27 ayes, 8 nays, and 14 not voting.

Mr. Lamb moved for a Call of the House. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mr. Lamb requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Emry	Clark	Keyes	Maresh	Savage
Bereuter	DeCamp	Kremer	Merz	Schmit
Burrows	Hefner	Labeledz	Moylan	Stoney
Carsten	Kahle	Lamb	Reutzel	Venditte

Voting in the negative, 25:

Brennan	D. Dworak	Koch	Marvel	Nichol
Chambers	Fowler	F. Lewis	Maxey	Rasmussen
Cope	George	R. Lewis	Mills	Rumery
Cullan	Kelly	Luedtke	Murphy	Simon
E. Dvorak	Kennedy	Marsh	Newell	Warner

Present and not voting, 4:

Duis	Fitzgerald	Goodrich	Hasebroock
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The Lamb amendment lost with 20 ayes, 25 nays, and 4 present and not voting.

Mr. F. Lewis moved the Call be raised. The Chair declared the Call raised.

Mr. F. Lewis offered the following amendment to the Hefner-Marvel amendment:

Line 3 strike 1979-80 and insert 1978-79

Line 5 strike 1978-79 and insert 1977-78

Line 6 strike 1979-80 and insert 1978-79

Mr. Venditte was excused by the Chair.

Mr. Koch moved the previous question. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The F. Lewis amendment was adopted with 22 ayes, 10 nays, 16 present and not voting, and 1 excused and not voting.

The Chair announced today is Mrs. Marsh's birthday.

Mr. Bereuter offered the following amendment to the Hefner-Marvel amendment:

Line 13 and 14 of the Hefner-Marvel amendment by striking the phrase "for which money is to be appropriated."

The Bereuter amendment was adopted with 26 ayes, 0 nays, 22 present and not voting, and 1 excused and not voting.

The Hefner-Marvel amendment was adopted, as amended, with 25 ayes, 15 nays, 8 present and not voting, and 1 excused and not voting.

Mr. Simon withdrew his pending amendment found in the Journal on page 39.

Mr. Koch offered the following amendment:

- 1 1. On page 4, at the end of line 16, insert:
- 2 "Voting at such special election shall be by those per-
- 3 sons who are authorized to vote for the members of the
- 4 governing body of such political subdivision."

The amendment was adopted with 25 ayes, 13 nays, 10 present and not voting, and 1 excused and not voting.

Mr. Rasmussen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Kelly offered the following amendment:

1. Strike original section 4.

Mr. Maresh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 13 nays, and 19 not voting.

The Kelly amendment lost with 14 ayes, 21 nays, 12 present and not voting, and 2 excused and not voting.

### EXPLANATION OF VOTE

As I was called to the phone I missed the vote on the Marvel/Hefner amendment to LB 1. Had I been at my desk I would have voted against the amendment.

(Signed) Samuel K. Cullan

### UNANIMOUS CONSENT - Print in Journal

Mr. Goodrich asked unanimous consent to print the following amendments to LB 1 in the Journal. No objections. So ordered.

(1)

#### Amendments to LB 1

- 1) Amend Section 1 by adding the following after the period in line 18, page 2:

"Any political subdivision of the state authorized to levy a tax or cause a tax to be levied may increase its budget for the fiscal year which

follows whenever its corporate limits are extended in the manner provided by law, or its per capita population is increased, or both, provided that such budget increase shall be limited to that amount which such added territory increases total revenue, if any, and by the same percentages the population is increased, if any. For purposes of this Act, population growth shall include, but shall not be limited to, the increase in population to the political subdivision as a result of extension of its corporate limits in the manner provided by law."

- 2) Renumber the lines of page 2 as required.
- 3) Amend Section 1 of Legislative Bill 1 by adding the words:  
 "contributions under the Federal Insurance Contributions Act, contributions to retirement and pension plans, and funds required for the satisfaction of judgments and litigation expenses in connection therewith"  
 after the fourth word "indebtedness" in line 10, page 3 of the Bill.
- 4) Renumber the lines of page 3 as required.

## (2)

- 1 1. Insert the following new section:
- 2 "Sec. 3. Any political subdivision of the state
- 3 authorized to levy a tax or cause a tax to be levied
- 4 which annexes property may increase its budget above
- 5 the limit established pursuant to subsection (1) of
- 6 section 1 of this act by the cost of providing necessary
- 7 services to the annexed area. The governing body
- 8 shall separately identify the increase necessary to pro-
- 9 vide services to the new area. The increase may be
- 10 made for the remainder of the fiscal year if the annex-
- 11 ation occurs during a fiscal year and may be made for
- 12 the first fiscal year affected by such annexation. The
- 13 increase shall become part of the budget and the limit
- 14 prescribed by subsection (1) of section 1 of this act
- 15 shall apply to all subsequent budgets."
- 16 2. Renumber original sections 3 and 4 as sections
- 17 4 and 5 respectively.

## (3)

Amend Section 1, subsection (1), on page 2, line 18, by adding the following after the period:  
 "Any political subdivision of the state authorized

to levy a tax or cause a tax to be levied may increase its budget for the fiscal year which follows whenever its corporate limits are extended in the manner provided by law, or its per capita population is increased, or both, provided that such budget increase shall be limited to that amount which such added territory increases total revenue, if any, and by the same percentages the population is increased, if any. For purposes of this Act, population growth shall include, but shall not be limited to, the increase in population to the political subdivision as a result of extension of its corporate limits in the manner provided by law."

Amend Section 1, subsection (3), on page 3, line 10, by adding the following after the word indebtedness:

" , funds to pay contributions under the Federal Insurance Contributions Act, funds to pay unemployment compensation contribution, funds to pay contributions to retirement and pension plans, funds for federally and state prescribed expenditures and programs, funds required for the satisfaction of judgments and litigation expenses in connection therewith, and funds for emergency expenditures during either man-made or natural disasters."

Amend Section 2, subsection (1), page 3, line 18, to page 4, line 6, by reinserting the stricken present statutory language.

Amend Section 2, page 4, line 3, by removing the period after "Section 77-1355" and adding the following:

"by three-fourths majority vote of the governing body that such limitation should be exceeded"

Provide a new section numbered 3 beginning on page 4, line 12 by inserting before the word "by" the following:

"Section 3. As an alternative to the hearing and vote of the governing body required in Section 2, if the governing body of any political subdivision authorized to levy a tax or cause a tax to be levied determines that a budget funded from ad valorem taxes higher then is permitted by Section 77-1355 is needed, it may".

Mr. Kelly asked unanimous consent to print the following amendments to LB 2 in the Journal. No objections. So ordered.

#### AMENDMENTS TO LB 2

- 1 1. Insert two new sections as follows:
- 2 "Sec. 8. That section 48-818, Reissue Revised
- 3 Statutes of Nebraska, 1943, be amended as follows:
- 4 48-818. The findings and order or orders may

5 establish or alter the scale of wages, hours of labor, or  
6 conditions of employment, or any one or more of the same.  
7 In making such findings and order or orders, the Court of  
8 Industrial Relations shall establish rates of pay and  
9 conditions of employment which are comparable to the preva-  
10 lent wage rates paid and conditions of employment maintained  
11 for the same or similar work of workers exhibiting like or  
12 similar skills under the same or similar working conditions.  
13 In establishing wage rates the court shall take into con-  
14 sideration the overall compensation presently received by  
15 the employees, having regard not only to wages for time  
16 actually worked but also to wages for time not worked, in-  
17 cluding vacations, holidays, and other excused time, and all  
18 benefits received, including insurance and pensions, and the  
19 continuity and stability of employment enjoyed by the  
20 employees. Any order or orders entered may be modified on  
21 the court's own motion or on application by any of the  
22 parties affected, but only upon a showing of a change in the  
23 conditions from those prevailing at the time the original  
24 order was entered. In making findings and issuing orders  
25 with respect to rates of pay and conditions of employment  
26 under this section the court shall consider governmental  
27 budgets and limitations thereon, appropriations, and levels  
1 of taxation. The court shall not issue an order increasing  
2 rates of pay or changing conditions of employment which  
3 will result in budget increases that exceed the limitation  
4 imposed pursuant to sections 1 to 7 of this act.  
5 Sec. 9. That original section 48-818, Reissue  
6 Revised Statutes of Nebraska, 1943, is repealed.”.  
7 2. On page 3, line 1 strike “budet” and insert “budget”.  
8 3. Renumber original section 8 as section 10.

Mr. Warner asked unanimous consent to print the following amendment to LR 1 in the Journal. No objections. So ordered.

#### AMENDMENT TO LR 1

1. On page 3, strike beginning with line 11 through “subdivision” in line 15 and insert “annually review and equalize assessments of property among counties”.

#### RESOLUTION

#### LEGISLATIVE RESOLUTION 9.

Introduced by DeCamp, 40th District.

A Resolution to propose an amendment to Article VIII, to add a new section 16, of the Constitution of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

Section 1. That at the general election in November, 1978, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to Article VIII, by adding a new section 16, of the Constitution of Nebraska, which is hereby proposed by the Legislature:

“Sec. 16. The people of the State of Nebraska declare it is in the best interests of the state to effect an orderly reduction of their tax burden without shifting costs to local government by enacting this constitutional provision as follows:

(1) All governmental subdivision tax receipts are limited to those produced by a mill levy no greater than the highest mill levy in either 1976-77 or 1977-78;

(2) Maximum state tax revenue is limited to that received in calendar year 1977;

(3) Any surplus of funds at the local subdivision level will be returned through reduced mill levies for the subsequent year;

(4) Any surplus of funds at the state level shall be returned as an income tax credit;

(5) The tax revenue limitations at either the subdivision or the state level may be adjusted through:

(a) General election; or

(b) A four-fifths vote of the local governing board;

(6) The tax revenue restrictions may be increased on an annual basis above the maximum cited in this section by an amount not greater than the percentage increase of the Consumer Price Index;

(7) Property shall be assessed for purposes of taxation at a uniform per cent of full value as established by the Legislature. Assessment and equalization of property values shall be administered at the state level;

(8) There shall be no shifting of expenditures by any jurisdiction to another;

(9) Expenditures for new programs shall be absorbed in current revenue, except that the state may provide for additional local tax reductions through the use of the state General Fund;

(10) The Legislature shall enact the necessary laws to implement this amendment; and

(11) The Legislature shall establish an emergency fund of no more than one-tenth of one per cent of deposits to the General Fund, which fund may be used when financial emergencies exist.”



Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by Article XVI, section 1, of the Constitution of Nebraska. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

“Constitutional amendment to provide for tax and expenditure limitations on both state and local government.”

For

Against”

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Referred to the Reference Committee.

### **VISITORS**

The President introduced Lt. Col. Meredith Thomas, Chaplain U.S. Air Force from Korea.

### **RECESS**

At 11:58 a.m., on a motion by Speaker Luedtke, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:37 p.m., President Whelan presiding.

### **ROLL CALL**

The roll was called and all members were present except Mrs. Marsh and Mr. Venditte who were excused; Messrs. F. Lewis, Newell, Rasmussen, and Simon who were excused until they arrive.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 6 and LR 7.

## RESOLUTIONS

## LEGISLATIVE RESOLUTION 10.

Introduced by Simon, 31st District; Merz, 10th District.

WHEREAS, the various Jaycee Chapters are organizations comprised of over three hundred seventy-five thousand men and women dedicated to self-improvement and community betterment; and

WHEREAS, there are presently approximately one hundred fifty Jaycee Chapters in Nebraska; and

WHEREAS, the national convention of Jaycee chapters has just elected its national president for 1978; and

WHEREAS, the new president-elect is Barry Kennedy of Pawnee City, Nebraska; and

WHEREAS, Mr. Kennedy is the third Nebraskan in over fifty years of elections to attain the Jaycee presidency.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates Mr. Barry Kennedy upon his election as national president of the Jaycees and extend best wishes for his term in office.

2. That a copy of this resolution be sent to Mr. Barry Kennedy in commemoration of this event.

Laid over.

## LEGISLATIVE RESOLUTION 11.

Introduced by Koch, 12th District.

WHEREAS, the annual meeting of Boys State and Girls State is a valued exercise for young people from all parts of our state in the practical processes of government and governing; and

WHEREAS, the election of governor at either of these meetings is a high point in microcosmic experience of self government; and

WHEREAS, the successful candidate for governor embodies qualities of intellect and character which serve as a benchmark of achievement for fellow participants.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature congratulate Anna Beeder from Ralston upon her election to the governorship of the 1978 Girls State meeting of Nebraska.

Laid over.

### **LEGISLATIVE RESOLUTION 12.**

Introduced by Koch, 12th District.

WHEREAS, the Nebraska Council of Youth sponsors the Youth of the Year Award to recognize high school seniors who have demonstrated outstanding skills in leadership and contributions to their communities and schools; and

WHEREAS, candidates for this honor must be recommended by their high school administrators and others with insights of a nominee's standing in the community; and

WHEREAS, the individual selected as Nebraska Youth of the Year becomes eligible for scholarship awards which provide added education opportunities.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature congratulate Tim O'Brien of Ralston upon his selection as Nebraska Youth of the Year for 1978, and offer best wishes in his future endeavors.

Laid over.

### **LEGISLATIVE RESOLUTION 13.**

Introduced by Koch, 12th District; D. Dworak, 22nd District.

WHEREAS, the annual competition for selection of Miss Teenage Nebraska attracts many talented young ladies from all parts of our state; and

WHEREAS, a hopeful candidate for the title of Miss Teenage Nebraska must demonstrate excellence in many categories of interest including citizenship, intellect, poise and related attributes; and

WHEREAS, the young lady selected for this honor has an opportunity to represent her state in future nationwide competition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature extend warmest congratulations to Miss Kim Prusia of Gordon, Nebraska for winning the coveted title of Miss Teenage Nebraska of 1978.

Laid over.

### UNANIMOUS CONSENT - Print in Journal

Mr. Kelly asked unanimous consent to print the following amendments to LB 1 in the Journal. No objections. So ordered.

- 1 1. Insert a new section as follows:
- 2 "Sec. 3. That section 48-818, Reissue Revised
- 3 Statutes of Nebraska, 1943, be amended as follows:
- 4 48-818. The findings and order or orders may
- 5 establish or alter the scale of wages, hours of labor, or
- 6 conditions of employment, or any one or more of the same.
- 7 In making such findings and order or orders, the Court of
- 8 Industrial Relations shall establish rates of pay and
- 9 conditions of employment which are comparable to the preva-
- 10 lent wage rates paid and conditions of employment maintained
- 11 for the same or similar work of workers exhibiting like or
- 12 similar skills under the same or similar working conditions.
- 13 In establishing wage rates the court shall take into con-
- 14 sideration the overall compensation presently received by
- 15 the employees, having regard not only to wages for time
- 16 actually worked but also to wages for time not worked, in-
- 17 cluding vacations, holidays, and other excused time, and all
- 18 benefits received, including insurance and pensions, and the
- 19 continuity and stability of employment enjoyed by the
- 20 employees. Any order or orders entered may be modified on
- 21 the court's own motion or on application by any of the
- 22 parties affected, but only upon a showing of a change in the
- 23 conditions from those prevailing at the time the original
- 24 order was entered. In making findings and issuing orders
- 25 with respect to rates of pay and conditions of employment
- 26 under this section the court shall consider governmental
- 27 budgets and limitations thereon, appropriations, and levels
- 1 of taxation. The court shall not issue an order increasing
- 2 rates of pay or changing conditions of employment which
- 3 will result in budget increases that exceed the limitation
- 4 imposed by sections 1 or 2 of this act."
- 5 2. On page 5 line 3 after "original" insert "section 48-818,
- 6 Reissue Revised Statutes of Nebraska, 1943, and".
- 7 3. Renumber original sections 3 and 4 as sections 4 and 5
- 8 respectively.

Mr. Kelly asked unanimous consent to print the following amendments to LB 15 in the Journal. No objections. So ordered.

(1)

- 1 1. Insert two new sections as follows:
- 2 "Sec. 10. That section 48-818, Reissue Revised
- 3 Statutes of Nebraska, 1943, be amended as follows:
- 4 48-818. The findings and order or orders may
- 5 establish or alter the scale of wages, hours of labor, or
- 6 conditions of employment, or any one or more of the same.
- 7 In making such findings and order or orders, the Court of
- 8 Industrial Relations shall establish rates of pay and
- 9 conditions of employment which are comparable to the preva-
- 10 lent wage rates paid and conditions of employment maintained
- 11 for the same or similar work of workers exhibiting like or
- 12 similar skills under the same or similar working conditions.
- 13 In establishing wage rates the court shall take into con-
- 14 sideration the overall compensation presently received by
- 15 the employees, having regard not only to wages for time
- 16 actually worked but also to wages for time not worked, in-
- 17 cluding vacations, holidays, and other excused time, and all
- 18 benefits received, including insurance and pensions, and the
- 19 continuity and stability of employment enjoyed by the
- 20 employees. Any order or orders entered may be modified on
- 21 the court's own motion or on application by any of the
- 22 parties affected, but only upon a showing of a change in the
- 23 conditions from those prevailing at the time the original
- 24 order was entered. In making findings and issuing orders
- 25 with respect to rates of pay and conditions of employment
- 26 under this section the court shall consider governmental
- 27 budgets and limitations thereon, appropriations, and levels
- 1 of taxation. The court shall not issue an order increasing
- 2 rates of pay or changing conditions of employment which
- 3 will result in budget increases that exceed the limitation
- 4 imposed by sections 1 to 8 of this act.
- 5 Sec. 11. That original section 48-818, Reissue
- 6 Revised Statutes of Nebraska, 1943, is repealed."
- 7 2. Renumber original section 10 as section 12.

(2)

1. Strike original section 10.

Mr. Kelly asked unanimous consent to print the following amendments to LB 13 in the Journal. No objections. So ordered.

## (1)

- 1 1. Insert a new section as follows:
  - 2 "Sec. 9. That section 48-818, Reissue Revised
  - 3 Statutes of Nebraska, 1943, be amended as follows:
  - 4 48-818. The findings and order or orders may
  - 5 establish or alter the scale of wages, hours of labor, or
  - 6 conditions of employment, or any one or more of the same.
  - 7 In making such findings and order or orders, the Court of
  - 8 Industrial Relations shall establish rates of pay and
  - 9 conditions of employment which are comparable to the preva-
  - 10 lent wage rates paid and conditions of employment maintained
  - 11 for the same or similar work of workers exhibiting like or
  - 12 similar skills under the same or similar working conditions.
  - 13 In establishing wage rates the court shall take into con-
  - 14 sideration the overall compensation presently received by
  - 15 the employees, having regard not only to wages for time
  - 16 actually worked but also to wages for time not worked, in-
  - 17 cluding vacations, holidays, and other excused time, and all
  - 18 benefits received, including insurance and pensions, and the
  - 19 continuity and stability of employment enjoyed by the
  - 20 employees. Any order or orders entered may be modified on
  - 21 the court's own motion or on application by any of the
  - 22 parties affected, but only upon a showing of a change in the
  - 23 conditions from those prevailing at the time the original
  - 24 order was entered. In making findings and issuing orders
  - 25 with respect to rates of pay and conditions of employment
  - 26 under this section the court shall consider governmental
  - 27 budgets and limitations thereon, appropriations, and levels
  - 1 of taxation. The court shall not issue an order increasing
  - 2 rates of pay or changing conditions of employment which
  - 3 will result in budget increases that exceed the limitations
  - 4 imposed by sections 1, 2, 7, or 8 of this act."
  - 5 2. On page 5 line 1 after "That" insert "original section
  - 6 48-818, Reissue Revised Statutes of Nebraska, 1943, and
  - 7 also".
  - 8 3. Renumber original sections 9 and 10 as sections 10 and
  - 9 11 respectively.

## (2)

1. Strike original section 10.

Mr. Kelly asked unanimous consent to print the following amendment to LB 6 in the Journal. No objections. So ordered.

1. Strike original section 268.

Mr. Kelly asked unanimous consent to print the following amendment to LB 5 in the Journal. No objections. So ordered.

1. Strike original section 6.

Mr. Kelly asked unanimous consent to print the following amendments to LB 4 in the Journal. No objections. So ordered.

(1)

1 1. Insert two new sections as follows:

2 "Sec. 4. That section 48-818, Reissue Revised

3 Statutes of Nebraska, 1943, be amended as follows:

4 48-818. The findings and order or orders may

5 establish or alter the scale of wages, hours of labor, or

6 conditions of employment, or any one or more of the same.

7 In making such findings and order or orders, the Court of

8 Industrial Relations shall establish rates of pay and

9 conditions of employment which are comparable to the preva-

10 lent wage rates paid and conditions of employment maintained

11 for the same or similar work of workers exhibiting like or

12 similar skills under the same or similar working conditions.

13 In establishing wage rates the court shall take into con-

14 sideration the overall compensation presently received by

15 the employees, having regard not only to wages for time

16 actually worked but also to wages for time not worked, in-

17 cluding vacations, holidays, and other excused time, and all

18 benefits received, including insurance and pensions, and the

19 continuity and stability of employment enjoyed by the

20 employees. Any order or orders entered may be modified on

21 the court's own motion or on application by any of the

22 parties affected, but only upon a showing of a change in the

23 conditions from those prevailing at the time the original

24 order was entered. In making findings and issuing orders

25 with respect to rates of pay and conditions of employment

26 under this section the court shall consider governmental

27 budgets and limitations thereon, appropriations, and levels

1 of taxation. The court shall not issue an order increasing

2 rates of pay or changing conditions of employment which

3 will result in budget increases that exceed the limitation

4 imposed by sections 1 or 2 of this act."

5 Sec. 5. That original section 48-818, Reissue

6 Revised Statutes of Nebraska, 1943, is repealed."

7 2. Renumber original section 4 as section 6.

(2)

1. Strike original section 4.

### GENERAL FILE

**LEGISLATIVE BILL 1.** Considered.

Mr. Chambers moved to indefinitely postpone LB 1.

Mr. Chambers moved for a Call of the House. The motion prevailed with 31 ayes, 4 nays, and 14 not voting.

Mr. Chambers requested a roll call vote on his motion to indefinitely postpone.

Voting in the affirmative, 11:

Chambers	Kahle	R. Lewis	Simon
Clark	Koch	Murphy	Warner
Fowler	Labedz	Savage	

Voting in the negative, 31:

Emry	E. Dvorak	Keyes	Maxey	Rumery
Bereuter	D. Dworak	Kremer	Mills	Schmit
Brennan	Fitzgerald	Lamb	Moylan	Stoney
Burrows	George	F. Lewis	Newell	
Carsten	Hasebroock	Luedtke	Nichol	
Cope	Hefner	Maresh	Rasmussen	
Duis	Kennedy	Marvel	Reutzel	

Present and not voting, 5:

Cullan	DeCamp	Goodrich	Kelly	Merz
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Excused and not voting, 2:

Marsh	Venditte
-------	----------

The Chambers motion lost with 11 ayes, 31 nays, 5 present and not voting, and 2 excused and not voting.

Mr. F. Lewis moved the Call be raised. The Chair declared the Call be raised.



Mrs. Maxey, Messrs. F. Lewis and Rasmussen asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Koch offered the following amendment:

- 1     1. Insert the following new section:
- 2     "Sec. 3. To the extent that any governmental
- 3     subdivision's budget is increased as a result of (1)
- 4     a decision based upon the laws or Constitution of the
- 5     United States or the laws or Constitution of the State
- 6     of Nebraska, by a court of competent jurisdiction, (2)
- 7     an act of Congress or the Legislature which is not
- 8     funded by state or federal sources, or (3) an increase
- 9     in the cost of utilities, the amount of the increase in
- 10    the budget shall not be considered part of the budget
- 11    for purposes of the limit prescribed by section 1 of
- 12    this act."
- 13    2. Renumber remaining sections accordingly.

Mr. Maresh offered the following amendment to the Koch amendment:

Amend the Koch amendment after jurisdiction insert "except Court of Industrial Relations"

Mr. Newell moved the previous question. The question is, "Shall the debate now close? The motion lost with 19 ayes, 14 nays, and 16 not voting.

#### **MR. DECAMP PRESIDING**

Mr. F. Lewis asked unanimous consent to have the amendments laid over.

Mr. D. Dworak objected.

Mr. Chambers moved to adjourn.

#### **PRESIDENT WHELAN PRESIDING**

The motion lost with 9 ayes, 27 nays, and 13 not voting.

The Maresh amendment was adopted with 26 ayes, 11 nays, 8 present and not voting, and 4 excused and not voting.

Mr. Newell moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 2 nays, and 20 not voting.

The Koch amendment, as amended, lost with 14 ayes, 20 nays, 11 present and not voting, and 4 excused and not voting.

### ANNOUNCEMENT

Mr. Marvel announced a meeting of the Executive Board in room 2102 at 4:00 p.m. today and Tuesday, June 27, 1978 at noon in room 2102.

### UNANIMOUS CONSENT - Member Excused

Mr. Merz asked unanimous consent to be excused Friday, June 23, 1978. No objections. So ordered.

### UNANIMOUS CONSENT - Print in Journal

Mr. Koch asked unanimous consent to print the following amendments to LB 2 in the Journal. No objections. So ordered.

1. Page 2, after the end of line 15, add the following:  
"Voting at such primary or special election shall be by those persons who are authorized to vote for the members of the governing body of such political subdivision. For the purpose of this section, the term budget funded by ad valorem taxes shall include all funds the source of which is an ad valorem tax regardless of the purpose of such funds, except such funds as are necessary to pay interest on and for retiring, funding, or servicing bonded indebtedness during the upcoming fiscal year."

2. Page 3, line 10, strike "1" and substitute "15".

### RESOLUTION

#### LEGISLATIVE RESOLUTION 14.

Introduced by D. Dworak, 22nd District; Schmit, 23rd District.

WHEREAS, youth athletic programs are revered as a means of instilling values essential for a productive and fulfilled adult life; and

WHEREAS, community endorsed track competition provides one such athletic program for youth; and

WHEREAS, Nebraska State Track Championship finals have recently been completed; and

WHEREAS, Coach Jim Puetz and the team members of Scotus Central Catholic High School in Columbus, Nebraska have won the State Class B Track Championship.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates Jim Puetz and the Scotus Central Catholic High School track team upon winning the Class B Track Championship, and commends all participants in the Nebraska tournament for their athletic accomplishments.

Laid over.

### GENERAL FILE

#### LEGISLATIVE BILL 1. Considered.

Mr. George offered the following amendment to LB 1:

Page 2, Line 5, strike the word "may" and insert the word "shall."

Mr. Newell moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 8 nays, and 16 not voting.

The George amendment lost with 11 ayes, 14 nays, 20 present and not voting, and 4 excused and not voting.

Mr. Duis offered the following amendment to LB 1:

Page 2, Line 10 after the period insert the following. Except as provided in section 23-929, Reissue Revised Statutes of Nebraska, 1943.

The Duis amendment was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Mr. Bereuter offered the following amendment to LB 1:

#### AMENDMENT TO LB 1

- 1 1. On page 2, strike beginning with "so" in line
- 2 6 through "than" in line 7, show as stricken, and
- 3 insert ", but no budget for the upcoming fiscal year
- 4 shall be in excess of one hundred".

The amendment was adopted with 28 ayes, 0 nays, 17 present and not voting, and 4 excused and not voting.

Mr. Duis moved to reconsider action on the Duis amendment adopted today. The motion prevailed with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Mr. Duis withdrew his amendment.

### UNANIMOUS CONSENT - Print in Journal

Mr. Newell asked unanimous consent to print the following amendments to LB 1 in the Journal. No objections. So ordered.

#### (1)

- 1 1. Insert the following new section:
- 2 "Sec. 3. The provisions of this act shall expire on
- 3 January 1, 1982."
- 4 2. Renumber original sections 3 and 4 as 4 and 5
- 5 respectively.

#### (2)

- 1 1. On page 2, line 13 strike "(a)"; in line
- 2 16 after "sources" insert an underscored period; and
- 3 strike beginning with "and" in line 16 through line 18
- 4 and show the old matter as stricken.

### VISITORS

The President introduced Robert Jeary, Wayne Schreurs, Fred Petsch, John Ehlers, Seward County Commissioners; Tim Hegholz, Seward County Highway Superintendent; Mrs. Kenneth Brauer and her daughter, Karla, from Eustis, Nebraska.

### ADJOURNMENT

At 4:03 p.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m., Friday, June 23, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature

FOURTH DAY - JUNE 23, 1978

LEGISLATIVE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
SECOND SESSION

FOURTH DAY

Legislative Chamber, Lincoln, Nebraska  
Friday, June 23, 1978

Pursuant to adjournment, the Legislature met at 9:01 a.m., President Whelan presiding.

PRAYER

The prayer was offered by Reverend Wallace E. Easter, Associate Pastor, Westminster Presbyterian Church, Lincoln, Nebraska.

This is another day that You have made and given to us, Lord God. Help us to make the most of each opportunity of this day.

We have been chosen to represent other people, and to lead them in the way of truth, justice, righteousness and peace. Help us never to betray the trust that others have in us.

You have shown us how to live harmoniously together...“In love preferring one another...”; and when it depends on us, You have called us to “live peaceably with all”. May all our decisions be made in a sincere desire to promote the common good.

Add Your blessing, O God, to the work of the State Legislature, and may the result of the efforts expended this day be a better State of Nebraska and a stronger America for all our people.

We pray in the Name of the One who came among us to show us that all this is possible, even Christ the Lord. Amen.

ROLL CALL

The roll was called and all members were present except Messrs. Merz, Nichol, Savage, and Venditte who were excused; Mesdames Labedz, Marsh, Messrs. Koch, Marvel, George, Moylan, Newell, F. Lewis, and Brennan who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the Third Day was approved.

**UNANIMOUS CONSENT - Member Excused**

Mr. Duis asked unanimous consent to be excused this afternoon. No objections. So ordered.

**SELECT COMMITTEE REPORT****Enrollment and Review****Correctly Engrossed**

The following bill was correctly engrossed: 12.

(Signed) Samuel K. Cullan, Chairman

**MOTION - Place LB 14 on General File**

Mr. Schmit renewed his pending motion found in the Journal on page 48 to place LB 14 on General File notwithstanding the committee action.

The motion lost with 24 ayes, 14 nays, 2 present and not voting, and 9 excused and not voting.

Speaker Luedtke asked unanimous consent to be excused until he returns. No objections. So ordered.

**MOTION - Suspend Rules**

Mr. DeCamp moved to suspend the rules, Rule 6, Sec. 1 to take LR 9 from the Reference Committee and place directly on General File.

Mr. DeCamp asked unanimous consent to hold the motion over until this afternoon.

Mr. Chambers objected.

Mr. D. Dworak raised a point of order of whether this resolution is within the Call of the Special Session.

The Chair sustained the point of order.

Mr. DeCamp challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

The motion prevailed with 19 ayes, 15 nays, and 15 not voting.

The Chair was overruled.

Mr. F. Lewis asked unanimous consent to hold the DeCamp motion over until Monday.

Mr. Chambers objected.

Mr. F. Lewis moved to have the motion laid over until Monday.

Mr. F. Lewis moved for a Call of the House. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. F. Lewis requested a roll call vote on his motion.

Voting in the affirmative, 23:

Emry	DeCamp	Hefner	Marsh	Schmit
Bereuter	Fowler	Kelly	Maxey	Simon
Brennan	George	Keyes	Rasmussen	Warner
Burrows	Goodrich	Kremer	Reutzel	
Cullan	Hasebroock	F. Lewis	Rumery	

Voting in the negative, 18:

Carsten	Duis	Kennedy	R. Lewis	Murphy
Chambers	E. Dvorak	Koch	Maresh	Stoney
Clark	D. Dworak	Labeledz	Marvel	
Cope	Kahle	Lamb	Mills	

Present and not voting, 1:

Fitzgerald

Excused and not voting, 7:

Luedtke	Moylan	Nichol	Venditte
Merz	Newell	Savage	

The motion lost with 23 ayes, 18 nays, 1 present and not voting, and 7 excused and not voting.

Mr. Simon moved the Call be raised. The Chair declared the Call raised.

Mr. DeCamp moved his motion be held over until Monday, June 26, 1978.

The motion prevailed with 18 ayes, 10 nays, 14 present and not voting, and 7 excused and not voting.

### **MOTION - Committee Bills**

Mr. Warner moved that all standing committees report all bills held in committees to the floor by adjournment of the fourth legislative day as advanced to General File or indefinitely postponed.

The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

### **RESOLUTIONS**

**LEGISLATIVE RESOLUTION 11.** Read. Considered.

LR 11 was adopted with 30 ayes, 0 nays, and 19 not voting.

**LEGISLATIVE RESOLUTION 12.** Read. Considered.

LR 12 was adopted with 25 ayes, 0 nays, and 24 not voting.

**LEGISLATIVE RESOLUTION 13.** Read. Considered.

LR 13 was adopted with 28 ayes, 0 nays, and 21 not voting.

**LEGISLATIVE RESOLUTION 14.** Read. Considered.

LR 14 was adopted with 28 ayes, 1 nay, and 20 not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 2.** E & R amendments found in the Journal on page 53 for the Third Day were adopted.

Mr. Kelly renewed his pending amendment found in the Journal on page 62.

Mr. Warner asked the Chair if the amendment is germane to the bill.



The Chair ruled the amendment was germane.

Mr. Kelly moved for a Call of the House. The motion prevailed with 20 ayes, 6 nays, and 23 not voting.

Mr. Kelly requested a roll call vote on his amendment.

Voting in the affirmative, 21:

Bereuter	D. Dworak	Kelly	R. Lewis	Stoney
Clark	George	Kennedy	Maresh	
Cope	Hasebroock	Keyes	Mills	
Cullan	Hefner	Kremer	Murphy	
DeCamp	Kahle	Lamb	Rasmussen	

Voting in the negative, 17:

Emry	E. Dvorak	Labeledz	Maxey	Warner
Brennan	Fowler	F. Lewis	Rumery	
Burrows	Goodrich	Marsh	Schmit	
Carsten	Koch	Marvel	Simon	

Present and not voting, 4:

Chambers	Duis	Fitzgerald	Reutzel
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Excused and not voting, 7:

Luedtke	Moylan	Nichol	Venditte
Merz	Newell	Savage	

The Kelly amendment lost with 21 ayes, 17 nays, 4 present and not voting, and 7 excused and not voting.

Mr. Koch withdrew his amendments found in the Journal on page 74.

Mr. Carsten moved the Call be raised. The Chair declared the Call raised.

Advanced to E & R for Engrossment with 26 ayes, 10 nays, 6 present and not voting, and 7 excused and not voting.

**ANNOUNCEMENT**

Mr. Reutzel announced that former Senator E. Thome Johnson is in the hospital in Fremont, Nebraska.

**MOTION - Reconsider Action on LR 14**

Mr. Simon moved to reconsider action on LR 14 adoption.

The motion lost with 8 ayes, 9 nays, and 32 not voting.

Messrs. Chambers, Rasmussen, and F. Lewis asked unanimous consent to be excused until they return. No objections. So ordered.

**GENERAL FILE****LEGISLATIVE BILL 1. Considered.**

Mr. Koch offered the following amendment to LB 1:

Strike the Hefner-Marvel amendment, as amended.

The amendment lost with 14 ayes, 19 nays, 8 present and not voting, and 8 excused and not voting.

Mr. Warner offered the following amendment to LB 1:

Page 2, in line 18 by striking the word "receipts" and insert "appropriation", insert the word "the" following the word "from" and strike the word "sources", line 16 strike "sources" and insert "appropriations".

The amendment lost with 23 ayes, 12 nays, 6 present and not voting, and 8 excused and not voting.

Messrs. Hefner and Simon asked unanimous consent to be excused. No objections. So ordered.

Mr. Kelly renewed his pending amendment found in the Journal on page 68.

Mr. Kelly moved for a Call of the House. The motion prevailed with 20 ayes, 2 nays, and 27 not voting.

Mr. Kelly requested a roll call vote.

Voting in the affirmative, 23:

Bereuter	DeCamp	Kelly	Maresh	Schmit
Carsten	D. Dworak	Kennedy	Marvel	Stoney
Clark	George	Kremer	Mills	Warner
Cope	Hasebroock	Lamb	Murphy	
Cullan	Kahle	R. Lewis	Rumery	

Voting in the negative, 13:

Emry	Fowler	Koch	Luedtke	Reutzel
Brennan	Goodrich	Labedz	Marsh	
Burrows	Keyes	F. Lewis	Maxey	

Present and not voting, 3:

Duis	E. Dworak	Fitzgerald
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Excused and not voting, 10:

Chambers	Merz	Newell	Rasmussen	Simon
Hefner	Moylan	Nichol	Savage	Venditte

The Kelly amendment lost with 23 ayes, 13 nays, 3 present and not voting, and 10 excused and not voting.

Mrs. Marsh moved the Call be raised. The Chair declared the Call raised.

Advanced to E & R for Review with 25 ayes, 11 nays, 3 present and not voting, and 10 excused and not voting.

### MOTION - Rule Change

Mr. DeCamp moved the following rule changes:

- 1 1. Amend Rule 5, Sec. 10 to read:
- 2 "Sec. 10. Except for those situations
- 3 requiring a three-fifths vote of the Legislature as
- 4 prescribed by Article IV, section 15 of the Constitution
- 5 of Nebraska, ~~Those~~ those expenditures on which the
- 6 Legislature votes shall require the approval of the
- 7 majority four-fifths of the elected members."

Referred to the Rules Committee.

Mr. DeCamp moved the following rule changes:

- 1 1. Insert the following new section to Rule 5:
- 2 "Sec. 14. It shall require a four-fifths vote of the
- 3 Legislature to pass an appropriations bill which would
- 4 increase the appropriation for the costs of the Legislature
- 5 in an amount in excess of five per cent above the previous
- 6 year's appropriation."

Referred to the Rules Committee.

### **UNANIMOUS CONSENT - Print in Journal**

Mr. Rumery asked unanimous consent to print the following memorandum in the Journal. No objections. So ordered.

TO: President Gerald Whelan  
Speaker Roland Luedtke  
All Members of the Nebraska Legislature  
FROM: Senator Myron Rumery  
RE: Craft State Office Building  
DATE: June 23, 1978

The Eighty-Fourth Legislature, First Session, enacted a law which established a State Office Building in North Platte, Nebraska, May 15, 1975.

This was done by acquiring a hospital building from the Great Plains Medical Center of North Platte. It had been previously purchased from the Sisters of Saint Francis, of Sylvania, Ohio, who had operated the hospital.

The building was then refurbished with some alterations and made into a fine office building.

The Legislature then passed a resolution asking that the building be named Craft State Office Building. This was done in honor of Senators Cecil and Ellen Craft, in appreciation for their many years of service to the community and Nebraska.

The State Building Advisory Commission then approved the resolution.

A dedication ceremony was conducted, on the lawn in front of Craft State Office Building, June 21, 1978. Governor J. James Exon delivered the dedicatory address.

Senator Ellen Craft responded by thanking the Governor, members of the Legislature, staff members, and citizens of North Platte for conferring this honor on her, with her late husband, Senator Cecil T. Craft.

Their sons, Cecil I. Craft, Jr., John C. Craft, Thomas E. Craft, and daughter Susan Craft Closky were present for the dedication.

MR:dg

Mr. Warner asked unanimous consent to print the following amendment to LB 2 in the Journal. No objections. So ordered.

#### AMENDMENTS TO LB 2

- 1       1. Insert a new section as follows:  
2       "Sec. 8. Any statutory limitation on the  
3       budget, funded by ad valorem taxes, of a political  
4       subdivision authorized to levy a tax or cause a tax to  
5       be levied shall not apply to any such political subdi-  
6       vision which has adopted a tax or budgetary limitation  
7       on ad valorem taxes by vote of the electors of the  
8       political subdivision pursuant to this act or any home  
9       rule charter.".
- 10      2. Renumber original section 8 as  
11      section 9.

#### ADJOURNMENT

At 12:12 p.m., on a motion by Speaker Luedtke, the Legislature adjourned until 10:00 a.m., Monday, June 26, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature



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**FIFTH DAY - JUNE 26, 1978**

**LEGISLATIVE JOURNAL**

**FIFTH DAY - JUNE 26, 1978****LEGISLATIVE JOURNAL****EIGHTY-FIFTH LEGISLATURE  
SECOND SESSION****FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Monday, June 26, 1978

Pursuant to adjournment, the Legislature met at 10:00 a.m.,  
President Whelan presiding.

**PRAYER**

The prayer was offered by the Chaplain.

Almighty and Everlasting God, Give us the insight to see that budgets and figures and dollar signs are more than ink upon paper and numbers that come out to neat balances. Make us look beyond the obvious and see the millions of people who are affected, the programs that are advanced or reduced, the services given, and the hope promised. Grant that the budget approved by this body may not only speak in terms of money, but may shout to the world that this state government is one that is truly of the people, by the people, and for the people. Amen.

**ROLL CALL**

The roll was call and all members were present except Mrs. Marsh, Messrs. Burrows, Chambers, Kremer, R. Lewis, Marvel, Newell and Simon who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the Fourth Day was approved.



MESSAGE FROM THE GOVERNOR

June 23, 1978

Mr. President, Mr. Speaker,  
and Members of the Legislature  
State Capitol Building  
Lincoln, Nebraska

Dear Mr. President and Senators:

For your information, I attach the Attorney General's opinion dealing with various legislative bills as addressed therein.

I concur with his opinion that these particular bills are within the call, just as I concur with his previous opinion that your consideration of constitutional amendments is not within the call.

I presume the Legislature will accept and applaud this opinion while you rejected the previous one.

The key point is that should a lawsuit be filed against your actions in the special session, the Attorney General would be in a position to defend your actions in any court proceedings against the bills he has approved, but undoubtedly not on any constitutional amendment passed.

Should you stray to consider the bills not advanced from committee to date, you would be advised to check with the Attorney General since I am sure some of those proposals are not within the call.

This for your information.

(Signed) Yours very truly,  
J. James Exon  
Governor

JJE:fw

Attachment

June 22, 1978

Honorable J. James Exon  
Governor of Nebraska  
State Capitol  
Lincoln, Nebraska 68509

Dear Governor Exon:

You have requested this office to review all the bills which were introduced at this Special Session of the Legislature to determine whether said bills fall within or without the Call proclaimed by you on June 5, 1978. We have reviewed LBs 1-16 pursuant to your request. This letter will discuss only those bills which have not already been killed, however. Those bills which we will discuss in this opinion are LBs 1, 2, 4, 5, 6, 12, 13, and 15.

The proclamation of June 5, 1978, stated the subjects of business of the Special Session of the Legislature in the following words pertinent to the question herein:

“ . . . for the purpose of considering and, if deeming it advisable, enacting legislation relating to the following subjects:

“ . . . .

“2. To enact spending limitations on government budgets.”

It is a well established proposition of law that the Legislature while in Special Session can transact no business except that for which it was called together under Article IV, Section 8, of the Constitution of Nebraska. The Supreme Court of Nebraska has stated the test to be applied in determining whether legislation enacted is within the scope of the Call, in Arrow Club, Inc. v. Nebraska Liquor Commission, 117 Neb. 686, 131 N.W.2d 134 (1964). The court therein stated on page 690:

“The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The purpose or subject as stated in the proclamation is to be determined by an analysis and construction of the proclamation as in the case of any written instrument. . . . The presumption is always in favor of the constitutionality of legislation and an act should be held to be within the Call if it can be done by any reasonable construction.”

In that case, however, the court held that legislation concerning bottle clubs was not within the purpose stated in the Call to redefine nonprofit corporations for purposes of the Liquor Control Act, and therefore the legislation was held to be void.

For the purpose of convenience, certain of the legislative bills will be discussed together in this opinion due to their similarity for purposes of this opinion, although their content may be quite dissimilar for other purposes.

LB 12 is the bill to extend the effective date of the criminal code, and clearly falls within the purpose stated in paragraph 1 of the proclamation. All other bills must fall within the purpose stated in paragraph 2 of the proclamation.

LBs 1, 2, 4, 13, and 15 all directly limit government spending by either the state or certain of its subdivisions by means of limiting in some manner the budget increases allowed. We therefore believe that each of these bills clearly falls within paragraph 2 of the Call.

LB 6 incorporates both a limitation on tax levy authorization commencing in 1984 and a limitation on property taxes commencing in 1980. Although this bill only indirectly limits governmental spending by limiting revenue from tax, we believe this bill could be defended since the effect of the bill accomplishes a purpose falling within the subject stated in paragraph 2 of the Call.

LB 5 provides for spending priorities for political subdivisions if limitations are placed upon their budgets. Although this bill does not itself limit expenditures, we believe this bill could be defended because it is legislation "relating to, germane to, and having a natural connection with" the purpose stated in paragraph 2 of the proclamation.

In conclusion, upon examining all of the legislative bills introduced at this special session which are still being considered, we believe all could be defended on the basis of being within the subject of the Call.

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

GBS:ejg

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR11, LR12, LR13, and LR14.

### SELECT COMMITTEE REPORTS Enrollment and Review

**LEGISLATIVE BILL 1.** Placed on Select File as amended.  
E & R amendments to LB 1:

1. On page 2, line 26, insert an underscored comma after "occur".

2. On page 4, line 22, strike the first "in" and insert "pursuant to"; and in line 25 strike the comma.

3. On page 5, line 14, strike "this act" and

insert "section 77-1355".

4. In the F. Lewis amendment strike "1778-79" and insert "1978-79".

5. In the title, line 6, insert "to impose a limitation on state budgets except as prescribed;" after the first semicolon.

### Correctly Engrossed

The following bill was correctly engrossed: 2.

(Signed) Samuel K. Cullan, Chairman

### ATTORNEY GENERAL'S OPINION

Opinion No. 254  
June 23, 1978

Dear Senator Warner:

You have requested the opinion of this office as to whether LB 4 is constitutional and whether it would be binding upon future legislatures. LB 4 in pertinent part provides that the Legislature may not exceed the previous year's budget by more than 5 percent unless the Legislature by four-fifths vote suspends the budget limitation. You have asked specifically whether this four-fifths vote requirement is proper.

Article III, section 13 of the Nebraska Constitution provides in pertinent part as follows:

" . . . No bill shall be passed by the Legislature unless by the assent of a majority of all members elected and the yeas and nays on the question of final passage of any bill shall be entered upon the journal."

Although the Nebraska Supreme Court has never been presented with the question of whether the Legislature may by statute restrict itself and future legislatures by requiring a larger-than-majority vote for passage of some act where the same is not required by the Constitution, an almost identical case was found from the State of Alabama.

Tayloe v. Davis, 212 Ala. 232, 102 So. 433 (1924), dealt with a situation in which the two houses of the Alabama Legislature had passed an act which in part provided that budget bills could only be amended by a two-thirds vote. In holding that section of the act to be

void, the court reviewed the various sections of their Constitution which prescribed a vote other than a majority vote and concluded as follows:

“Viewing the Constitution as a whole, we are impressed that in spirit it recognizes the fundamental principal that a democracy functions by rule of the majority. Wherein a different rule of legislative action is deemed best, such rule is set forth in the Constitution. Section 63, requiring a majority of each house assembled ready for business, to pass a bill, and Section 64, requiring the same majority to amend a pending bill, mean to fix and prescribe the vote necessary to pass a bill or adopt an amendment thereto, except as otherwise fixed in the Constitution.”

This same reasoning would appear to be very applicable to the situation at hand. Article III, section 13, states the general rule that a majority is required to pass a bill. Many other sections state the exceptions to this general rule, i.e. Article III, section 10; Article III, section 22; Article III, section 27; Article IV, section 7; Article IV, section 15; and Article IV, section 27. It therefore appears implicit in our Constitution that a majority of the members elected to the Legislature is all that is required to pass legislation, except in those situations wherein the Constitution specifically provides otherwise.

This same reasoning was also employed in Heiskell v. City of Baltimore, 4 A. 116 (Md. 1886). Although the factual situation in that case was considerably different, much of the reasoning and language is particularly applicable. In that case, the city council had attempted to require the presence of two-thirds of the members to constitute a quorum. State enabling legislation was silent on the question of how many are required for a quorum, although under common law only a majority was required. In striking down this two-thirds requirement, the court stated as follows:

“... No municipal corporation can either enlarge or diminish its own powers. That is more than the legislature of the state can do for itself. The latter derives all its powers from the constitution, and the former all its powers from the legislature. By the consent of the legal body, which is the majority, either may refrain from exercising any power it rightfully has, but that is all. But a majority, being the legal body, cannot delegate its rights and powers to a minority. Such would be the practical effect of this two-third rule. It would give to one more than a third of the whole number of councilmen elected the power to prevent the passage of every ordinance, and thus entirely block the business of the council.” (Emphasis added)

The proposed legislation herein is an attempt by the Legislature to diminish its own power. By doing so, however, under the reasoning of the case discussed above, it could be argued that the majority are delegating undue rights and powers to a small minority, since ten legislators could prohibit a budget bill from being passed which increases the budget by more than 5 percent.

It could also be argued that this bill is in conflict with Article III, section 22, wherein it is provided that "[E]ach Legislature shall make appropriations for the expenses of the Government." LB 4, by its terms, would not only affect this Legislature, but also all future legislatures, and a future Legislature could be impaired in its constitutional mandate to "make appropriations for the expenses of the Government."

In conclusion, this office believes that if LB 4 were passed in its present form, it would be difficult to defend constitutionally for all of the reasons expressed above. It is our opinion that a constitutional amendment would be required to impose a more restrictive vote requirement upon the Legislature in its function of appropriating funds for the expense of government.

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

GBS:lc

cc: Clerk of the Legislature

### **MOTION - Adjournment**

Mr. Savage moved to adjourn until 10:00 a.m., Tuesday, June 27, 1978.

The motion lost with 11 ayes, 26 nays, and 12 not voting.

### **RESOLUTION**

**LEGISLATIVE RESOLUTION 10.** Read. Considered.

LR 10 was adopted with 35 ayes, 0 nays, and 14 not voting.

## GENERAL FILE

LEGISLATIVE BILL 5. Title read. Considered.

## MR. MILLS PRESIDING

Mr. Kelly renewed his pending amendment found in the Journal on page 71.

The Kelly amendment lost with 13 ayes, 20 nays, 11 present and not voting, and 5 excused and not voting.

Mr. DeCamp offered the following amendment:

## AMENDMENTS TO LB 5

1. Strike the original sections and insert the following:

"Section 1. Every political subdivision of the state authorized to levy a tax or cause a tax to be levied shall limit its budget for the 1979-80 fiscal year to an amount not to exceed five per cent more than its budget for the 1978-79 fiscal year, except as provided in sections 2 to 7 of this act; and for each fiscal year after the 1979-80 fiscal year, its budget shall not exceed the previous fiscal year's budget by more than five per cent, except as provided in sections 2 to 7 of this act. Budget shall mean and include all funds except such funds as are used for employer's contributions under the Federal Insurance Contributions Act and as are used to pay interest on or for retiring, refinancing, or servicing bonded indebtedness during the upcoming fiscal year, and amounts referred to in section 7 of this act. No tax shall be levied or an amount budgeted in excess of the limitation contained in this section for the purpose of acquiring buildings, the erection of buildings, and additions to buildings without a majority vote of the qualified electors voting in an election called for such purpose. No election shall be required as to any buildings acquired, erected, or added to under the provisions of Article XIII, section 2 of the Constitution.

Sec. 2. Any political subdivision of the state authorized to levy a tax or cause a tax to be levied which experiences a growth in population in excess of five per cent during the calendar year per annual official estimates may increase its budget for the fiscal year which follows by the same percentage increase as the percentage increase in the population, up to a population

10 growth of ten per cent; and for each per cent of  
11 population growth in excess of ten per cent may increase  
12 its budget one half of one per cent for each per cent of  
13 increase in the population in excess of ten per cent.  
14 School districts' populations shall be measured by  
15 student enrollments. The Department of Revenue shall  
16 adopt rules and regulations to prescribe the procedures  
17 for political subdivisions to calculate official  
18 population estimates.

19 Sec. 3. Each year, the Legislature may by  
20 resolution suspend, by a four-fifths vote, the budget  
21 limitations provided for in sections 1 and 2 of this act.  
22 In the resolution to suspend, the Legislature shall set  
23 forth (1) the reasons for the suspension, (2) the  
24 political subdivisions affected by the suspension, and  
25 (3) the allowed increase in excess of the limitations for  
26 the upcoming fiscal year provided for in sections 1 and 2  
27 of this act. Any political subdivision affected under  
1 such suspension may include the allowed increase in its  
2 budget for the fiscal year following such year of  
3 suspension. No resolution suspending budget limitations  
4 shall be effective for more than one fiscal year.

5 Sec. 4. If the governing body of any political  
6 subdivision of the state authorized to levy a tax or  
7 cause a tax to be levied determines that a budget higher  
8 than that permitted in section 1, 2, or 3 of this act is  
9 needed, it shall by resolution call for a special  
10 election of such political subdivision for that purpose.  
11 The budget increase above the limit permitted in section  
12 1, 2, or 3 of this act may be adopted if approved by a  
13 majority of the qualified electors voting in such  
14 election. The resolution calling for the election, the  
15 election notice, and the proposition appearing in the  
16 election ballot shall refer to section 1, 2, or 3 of this  
17 act, and shall state that the limitation contained  
18 therein is proposed to be exceeded and show the proposed  
19 increase in the budget amount in terms of dollars and  
20 percentages over the limitation as computed in section 1,  
21 2, or 3 of this act, and in terms of dollars and the per  
22 cent of increase over the current budget. All such  
23 elections shall be held by August 15 of the year in which  
24 taxes will be levied to fund the budget. The form of  
25 submission upon the ballot shall be as follows:

26 For exceeding the budget limit.

1 Against exceeding the budget limit.

2 Sec. 5. Notice of the election called under  
3 section 4 of this act shall state the date on which the



4 election is to be held and the hours the polls will be  
5 open. Such notice shall be published in a newspaper that  
6 is published in or of general circulation in the  
7 political subdivision at least fifteen days prior to such  
8 election. If no newspaper is published in or of general  
9 circulation in the political subdivision, notice shall be  
10 posted in each of three public places therein.

11 Sec. 6. The statutes of this state relating to  
12 election officers, voting places, election apparatus and  
13 blanks, preparation and form of ballots, information to  
14 voters, delivery of ballots, calling of elections,  
15 conduct of elections, manner of voting, counting of  
16 votes, records and certificates of election, and recounts  
17 of votes, so far as applicable, shall apply to voting on  
18 the question of a budget increase by the voters under the  
19 provisions of this act.

20 Sec. 7. To the extent any budget category or  
21 revenue source is increased as the result of a decision  
22 based upon the provisions of the Constitution of the  
23 United States, by a court of competent jurisdiction, the  
24 amount of the increase in the budget limit or revenue  
25 source for that category shall not be considered a part  
26 of the budget for purposes of section 1, 2, or 3 of this  
27 act.

1 Sec. 8. Since an emergency exists, this act  
2 shall be in full force and take effect, from and after  
3 its passage and approval, according to law.”.

4 2. In the title strike lines 2 to 5 and insert:  
5 “FOR AN ACT relating to revenue; to provide a limitation  
6 on the budgets of political subdivisions; to  
7 provide an exception; to provide for an  
8 election; and to declare an emergency.”.

Mr. Kelly asked unanimous consent to have the amendment laid over.

Mr. DeCamp objected.

Mr. DeCamp offered the following amendment to his amendment:  
Strike “79-80” and insert “78-79”.

The amendment was adopted with 20 ayes, 16 nays, 10 present and not voting, and 3 excused and not voting.

Mr. Murphy raised a point of order on whether this amendment shall be admitted according to Rule 7, Sec. 3d.

The Chair overruled the point of order.

Mr. Murphy challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?" The motion lost with 12 ayes, 17 nays, and 20 not voting.

The Chair was sustained.

Mr. Rumery asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Fowler moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 5 nays, and 17 not voting.

The DeCamp amendment, as amended, was adopted with 26 ayes, 15 nays, 4 present and not voting, and 4 excused and not voting.

Advanced to E & R for Review with 25 ayes, 14 nays, 6 present and not voting, and 4 excused and not voting.

### **ANNOUNCEMENTS**

Mr. Maresh announced the Business and Labor Committee will hold an organizational meeting Wednesday, June 28, 1978, at 1:00 p.m. in Room 1019.

Mr. DeCamp announced the Rules Committee will hold a meeting Tuesday, June 27, 1978 at 12:00 Noon in Room 1019.

### **UNANIMOUS CONSENT - Member Excused**

Mr. Fitzgerald asked unanimous consent to be excused Tuesday, June 27 and Wednesday, June 28, 1978. No objections. So ordered.

### **RESOLUTIONS**

#### **LEGISLATIVE RESOLUTION 15.**

Introduced by Business and Labor Committee: Maresh, 32nd District, Chairman; Lamb, 43rd District; Fitzgerald, 14th District; Rasmussen, 41st District; Brennan, 19th District.

WHEREAS, the Eighty-fifth Legislature of Nebraska, Second Session, in LR 260, approved a contract between the Nebraska Game

and Parks Commission and the Nebraska Association of Public Employees Game and Parks Chapter Number Eight; and

WHEREAS, the approved contract contained certain incorrect language; and

WHEREAS, the corrected contract requires legislative approval.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

That the Legislature approves such corrected contract.

Laid over.

#### **LEGISLATIVE RESOLUTION 16.**

Introduced by Koch, 12th District.

WHEREAS, the Distributive Education Clubs of America, (DECA) is the only national youth organization operating in our public schools to attract young people to careers in marketing and distribution; and

WHEREAS, DECA is designed to develop future leaders for marketing and distribution as well as shape positive attitudes and aid youths to grow in the responsibilities of citizenship; and

WHEREAS, the national DECA organization is comprised of delegates elected by DECA chapters in each state, who in turn elect national officers to lead the national DECA program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature congratulates Shanita Spencer of Ralston High School upon her election as national president of DECA.

Laid over.

#### **LEGISLATIVE RESOLUTION 17.**

Introduced by Koch, 12th District.

WHEREAS, the fine work of Nebraska artists of all ages has become a part of our heritage and enriches our lives; and

WHEREAS, those individuals who attain distinction in the world of fine arts deserve special recognition; and

WHEREAS, the sculpture of Eric George, son of Senator Walter George, has won first prizes in local and national contests and is scheduled for national exhibition.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature commend Eric George for his artistic efforts and congratulate him on the pending exhibition of his work at the Kennedy Gallery in New York City in September.

Laid over.

#### **LEGISLATIVE RESOLUTION 18.**

Introduced by George, 16th District; Koch, 12th District; Labedz, 5th District; Murphy, 17th District; Maxey, 46th District.

WHEREAS, polished professional quality secretarial services are essential to every enterprise requiring clerical work; and

WHEREAS, the status of Certified Professional Secretary is the highest achievement any secretary in the nation can reach; and

WHEREAS, many secretaries strive for years to achieve this status; and

WHEREAS, Debbie Holmes of Emerson, Nebraska has achieved this status on her first attempt at the age of twenty-two.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That in acknowledgement of the achievement of Debbie Holmes in attaining the status of Certified Professional Secretary, and promote recognition of the Certified Professional Secretary program, it is hereby declared that Monday, August 14, 1978, be designated as "Debbie Holmes, CPS, Day" in the State of Nebraska.

2. That a copy of this resolution be sent to Debbie Holmes and to the Nebraska chapter of Certified Professional Secretaries.

Laid over.

#### **LEGISLATIVE RESOLUTION 19.**

Introduced by Schmit, 23rd District; Lamb, 43rd District; Hefner, 19th District; Stoney, 4th District; Carsten, 2nd District; Clark, 47th District; Cullan, 49th District; Mills, 44th District; F. Lewis, 45th District; Luedtke, 28th District; Warner, 25th District.

WHEREAS, the tax burden upon the local taxpayer has increased significantly in the past few years; and

WHEREAS, local governments have been required to increase services, often due to demands of their citizens; and

WHEREAS, in order to decrease the tax burden on the local taxpayer, it is necessary to cut spending by the local governments; and

WHEREAS, there are a number of statutes of the State of Nebraska which may have to be amended or repealed in order for the local governments to decrease their spending; and

WHEREAS, there is uncertainty as to all the laws which would have to be amended or repealed in order for the local governments to decrease their spending; and

WHEREAS, it is necessary to conduct a survey of the Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, to isolate those statutes which would have to be modified or repealed to allow the necessary budget limitations.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That a study committee composed of the chairmen of the Standing Committees of the Nebraska State Legislature take what actions are required to survey the statutes of Nebraska to identify those laws that would have to be amended or repealed in order to allow local governments to decrease their spending.

2. That the committee at the conclusion of its study shall make a report of its findings, together with any recommendations to the Legislature.

Referred to the Reference Committee.

### **MOTION - Adjournment**

Mr. Venditte moved to adjourn until 9:00 a.m., Tuesday, June 27, 1978. The motion lost with 5 ayes, 27 nays, and 17 not voting.

### **RECESS**

At 11:52 a.m., on a motion by Speaker Luedtke, the Legislature recessed until 1:30 p.m.

### **AFTER RECESS**

The Legislature reconvened at 1:31 p.m., President Whelan presiding.

**ROLL CALL**

The roll was called and all members were present except Messrs. Chambers, Kremer, F. Lewis, R. Lewis, Schmit and Simon who were excused until they arrive.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following resolution: LR 10.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review**

**LEGISLATIVE BILL 5.** Placed on Select as amended.  
E & R amendments to LB 5:

(Note: The DeCamp amendment to the DeCamp amendments is to page 1, lines 6 and 10.)

1. Pursuant to the DeCamp amendment thereto, in the DeCamp amendments, page 1, line 8, strike "1978-79" and insert "1977-78".

2. In the DeCamp amendments, page 1, line 9, insert a comma after "and"; and in line 21 strike "and" and insert "or".

3. In the DeCamp amendments, page 2, line 6, strike "per" and insert "as determined by"; and in line 10 strike "each per cent of".

4. In the DeCamp amendments, page 4, line 2, insert "that" after "extent".

(Signed) Samuel K. Cullan, Chairman

**GENERAL FILE**

**LEGISLATIVE BILL 4.** Title read. Considered.

Mr. Kelly renewed his pending amendment (2) found in the Journal on page 72.

The amendment lost with 16 ayes, 16 nays, 11 present and not voting, and 6 excused and not voting.

Mr. Kelly renewed his pending amendment (1) found in the Journal on page 71.

The amendment lost with 20 ayes, 13 nays, 10 present and not voting, and 6 excused and not voting.

Mr. Warner offered the following amendments:

#### AMENDMENTS TO LB 4

2 1. Strike the original sections and insert the  
3 following:

4 "Section 1. The State of Nebraska shall limit  
5 its appropriations from the General Fund and State  
6 Building Fund for the 1979-80 fiscal year to an amount  
7 not to exceed five per cent more than its appropriations  
8 from the General Fund and State Building Fund for the  
9 1978-79 fiscal year, except as provided in section 2 of  
10 this act.

11 Sec. 2. To the extent that any appropriation  
12 from the General Fund or State Building Fund is increased  
13 in excess of five per cent as the result of (1) a  
14 decision based upon the Constitution of the United States  
15 or the Constitution of the State of Nebraska, by a court  
16 of competent jurisdiction, (2) an increase for employee's  
17 contributions under the Federal Insurance Contributions  
18 Act, (3) statutorily mandated aid payments to political  
19 subdivisions, enacted prior to the effective date of this  
20 act, including but not limited to financial assistance  
21 provided under (a) section 77-202.22, Reissue Revised  
22 Statutes of Nebraska, 1943, for homestead relief, (b)  
23 sections 77-202.30 and 77-202.42, Revised Statutes  
24 Supplement, 1977, for Personal Property Tax Relief, (c)  
25 Chapter 43, article 6, Reissue Revised Statutes of  
1 Nebraska, 1943, and amendments thereto, for special  
2 education, or (d) section 81-1533, Reissue Revised  
3 Statutes of Nebraska, 1943, for secondary waste water  
4 treatment, or (4) claims against the state, the amount of  
5 such increase in the appropriation shall not be  
6 considered a part of the appropriation for purposes of  
7 section 1 of this act.

8 Sec. 3. For the purposes of this act,  
9 appropriations from the General Fund and State Building  
10 Fund shall mean all funds which are appropriated by the  
11 Legislature from such funds, except that it shall not  
12 include any amounts that are encumbered or  
13 reappropriated.

14 Sec. 4. Since an emergency exists, this act  
15 shall be in full force and take effect, from and after  
16 its passage and approval, according to law."

17 2. In the title, strike beginning with "to" in

18 line 3 through line 4 and insert "to define a term;"

Mr. Kelly offered the following amendment to the Warner amendment:

The Court of Industrial Relations is not a court of competent jurisdiction.

Line 16 after comma after jurisdiction.

Mr. Kelly moved for a Call of the House. The motion prevailed with 23 ayes, 5 nays, and 21 not voting.

Mr. Kelly requested a roll call vote on his amendment.

Voting in the affirmative, 22:

Bereuter	Duis	Kahle	Lamb	Nichol
Carsten	D. Dworak	Kelly	Maresh	Rasmussen
Clark	George	Kennedy	Marvel	
Cope	Hasebroock	Keyes	Moylan	
Cullan	Hefner	Kremer	Murphy	

Voting in the negative, 23:

Emry	Fitzgerald	Marsh	Reutzel	Stoney
Brennan	Goodrich	Maxey	Rumery	Venditte
Burrows	Koch	Merz	Savage	Warner
DeCamp	F. Lewis	Mills	Schmit	
E. Dvorak	Luedtke	Newell	Simon	

Present and not voting, 1:

Labeledz

Excused and not voting, 3:

Chambers      Fowler      R. Lewis

The Kelly amendment lost with 22 ayes, 23 nays, 1 present and not voting, and 3 excused and not voting.

Mr. Cullan moved the Call be raised. The Chair declared the Call raised.

The Warner amendment was adopted with 30 ayes, 4 nays, 13 present and not voting, and 2 excused and not voting.



Advanced to E & R for Review with 38 ayes, 0 nays, 9 present and not voting, and 2 excused and not voting.

## RESOLUTION

### LEGISLATIVE RESOLUTION 20.

Introduced by Marsh, 29th District; Maxey, 46th District.

WHEREAS, Nebraska is proud of the competitive spirit and accomplishments of its athletes; and

WHEREAS, members of the South Lincoln Track Club recently achieved special distinction by winning a first place championship in competition in the U.S. Track and Field Federation Girl's National Age Group Championships at Des Moines, Iowa, home of the Drake Relays; and

WHEREAS, this championship reflects long hours of sacrifice and training in preparation for testing skills and endurance against athletes from all parts of the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature extends its congratulations to all members of the South Lincoln Track Club and their coach Terry McGinn on their success in the national track competition in Des Moines.

Laid over.

## ATTORNEY GENERAL'S OPINIONS

Opinion No. 255  
June 26, 1978

Dear Senator Hefner:

You have requested the opinion of this office concerning the effect of Senator Lewis' amendment to the Hefner-Marvel amendment to LB 1 upon the state budget adopted by the Legislature this past session. The Hefner-Marvel amendment to LB 1 adds three sections which impose a 7 percent budget increase limitation upon state spending beginning with the 1979-80 fiscal year, unless the Legislature suspends the limitation by a four-fifths vote. As to the constitutionality of this amendment, we direct your attention to Opinion No. 254 written earlier to Senator Warner concerning LB 4 (attached). The Lewis amendment amends the Hefner-Marvel amendment by making the budget limitation upon the state effective for the 1978-79 fiscal year,

which is the fiscal year for which appropriations were made by the Legislature at its last session. Your question is what effect the Lewis amendment will have on those appropriations. In our opinion, the Lewis amendment as it now stands can have no effect upon the appropriations made at the last session.

Article III, section 22, provides in pertinent part that “[E]ach Legislature shall make appropriations for the expenses of the Government.” Article III, section 25, provides in pertinent part as follows:

“ . . . No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law, . . . ”

Finally, Article III, section 14, provides in pertinent part as follows:

“ . . . And no law shall be amended unless the new act contain the section or sections as amended and the section or sections so amended shall be repealed. . . . ”

At the past session, specific appropriations were made by the Legislature for the expenses of government for the coming fiscal year. Once the appropriation is made, the agency to which the appropriation is made has authority to spend those funds for the appropriate purpose. The effect of the Lewis amendment, if given effect, would be to amend those appropriation bills which have already been duly passed by the Legislature. Under Article III, section 14, this cannot be done unless the “new act contain the section or sections as amended and the section or sections so amended shall be repealed.” It could, however, be argued that LB 1 as amended would constitute a complete and independent act and therefore that it does not need to set forth and repeal the section or sections amended. Even if such an argument were applicable, which we do not believe is true in this case, there nevertheless would be a further constitutional problem with the specificity of the appropriation, under Article III, section 25. It would be impossible for the executive department to determine where funds are to be cut from a budget in order to comply with the 7 percent lid, because a “specific appropriation” has not been made in accordance with the Constitution. Only the Legislature has the authority to make that determination. Therefore, in order to accomplish the results contemplated by the Lewis amendment, it is our opinion that the appropriations bills passed at the past session of the Legislature must be specifically amended in order to satisfy both section 14 and section 25 of Article III.

Reading the constitutional provisions cited herein in *pari materia* and considering the constitutional problems which would be presented, we do not believe the Lewis amendment could be defended against constitutional attack.

You have also asked in your request whether the term "budget" in the Hefner-Marvel amendment includes revolving funds and reappropriated funds. Unless defined otherwise, it is our opinion that reappropriated funds would be included. We are not sure, however, what you are referring to by revolving funds. As a general rule, however, any funds which the Legislature appropriates, except federal funds, would be included in the term "budget" according to section 5 of the amendment. Therefore, if the revolving funds are appropriated by the Legislature and are other than federal funds, they would be included within the term "budget."

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

GBS:lc

Enclosure

cc: Clerk of the Legislature

Opinion No. 256  
June 23, 1978

Dear Senator Warner:

You have directed our attention to LB 4, Eighty-Fifth Legislature, First Special Session, 1978. LB 4 in Section 1 provides:

"The State of Nebraska shall limit its budget for the 1979-80 fiscal year to an amount not to exceed five per cent more than its budget for the 1978-79 fiscal year; and for each fiscal year after the 1979-80 fiscal year its budget shall not exceed the previous fiscal year's budget by more than five per cent."

You ask, does this limitation exclude the general, cash or revolving fund appropriations for the University of Nebraska, Board of Educational Lands and Funds and other agencies created in the Constitution. In Section 3 of LB 4 "budget" is defined to include all funds which are appropriated by the Legislature except that it shall not include any federal funds that may be appropriated. Arguably this could include all funds coming into the hands of any agency of state government, whether constitutionally created or otherwise. So the deciding factor would be whether or no(sic) the Legislature saw fit to appropriate funds that may be characterized as trust funds. For instance, the Supreme Court, in the Case of Board of Regents v. Exon, 199 Neb.146, 256 N.W.2d 330 (1977), held:

“The expenditure of the general funds of the state is under the control of the Legislature and it is the duty and responsibility of the Legislature to make the appropriations necessary for the operation of state government. The restriction upon money to be drawn from the treasury has reference generally to funds of the state that may be used to defray the general expenses of government.”

The court went on to hold that the Legislature could not control, by requiring annual appropriations, the expenditure or use of such monies as student fees, fees charged at the Medical Center, similar fees charged for University activities or profits from the sale of commodities raised on University property. These funds not derived from taxation were held to have a different status. Thus it would appear that these kinds of funds are not subject to legislative control. As you know, there are a variety of entities created by the Constitution which derive operating revenue from their operation — the University of Nebraska, the Board of Trustees of the State Colleges and the Board of Educational Lands and Funds all derive operating revenue out of the proprietary functions. Each of these agencies in addition receive money appropriated by the Legislature from the general fund for the operation of their particular body.

While the definition of Section 3 of LB 4 might be broad enough to include the monies raised by these entities, we believe that in light of the Supreme Court's decision in Board of Regents v. Exon this particular limitation would not apply to funds accruing by virtue of proprietary activities of constitutional entities. At least with respect to the three agencies mentioned in this letter some grant of power by the Constitution exists in respect to their ability to expend those funds as it has been interpreted in Board of Regents v. Exon. Thus, even if the Legislature determined that they would appropriate a sum of money in the state budget to be derived from these sources, we believe that the court would hold this to be an unnecessary act and of no force or effect. Therefore, such funds would be excluded as not being funds which are appropriated by the Legislature.

You also ask that we list all agencies or commissions that might be excluded from the provisions of this legislation. It is our opinion that only those agencies which have constitutional status and constitutional authority to expend funds or to operate in a proprietary capacity would be such as to be excluded from a limitation. Any agency created by the Legislature which acts in a proprietary capacity or has a cash or revolving fund appropriated would be subject to the limitation expressed in LB 4.

Sincerely,  
PAUL L. DOUGLAS  
Attorney General  
(Signed) Patrick T.O'Brien  
Assistant Attorney General

PTO:smb

cc: Mr. Patrick O'Donnell  
Acting Clerk of the Legislature

### SELECT FILE

**LEGISLATIVE BILL 1.** E & R amendments found in this day's Journal were adopted.

Mr. Goodrich withdrew his pending amendments found in the Journal on pages 60 and 61.

Mr. Fowler offered the following amendment:  
Strike all amendments to LB 1 and return it to its original form.

Mr. Warner raised a point of order on the amendment.

The Chair sustained the point of order.

Mr. Murphy challenged the ruling of the Chair.

Mr. Fowler withdrew his amendment.

Mr. Fowler offered the following amendment:  
Strike all of LB 1 and amend it with LB 1 as introduced.

Mr. Newell moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 4 nays, and 17 not voting.

Mr. Bereuter requested a record vote on the Fowler amendment.

Voting in the affirmative, 37:

Emry	Cullan	George	Koch	Marsh
Brennan	DeCamp	Hasebroock	Kremer	Marvel
Burrows	Duis	Hefner	Labeledz	Maxey
Carsten	E. Dvorak	Kelly	F. Lewis	Merz
Clark	Fitzgerald	Kennedy	Luedtke	Moylan
Cope	Fowler	Keyes	Maresh	Newell

Rasmussen	Rumery	Simon	Warner
Reutzel	Schmit	Stoney	

Voting in the negative, 6:

Bereuter	Kahle	Mills
D. Dworak	Lamb	Murphy

Present and not voting, 4:

Goodrich	Nichol	Savage	Venditte
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Excused and not voting, 2:

Chambers	R. Lewis
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The Fowler amendment was adopted with 37 ayes, 6 nays, 4 present and not voting, and 2 excused and not voting.

Mr. Newell withdrew his pending amendments found in the Journal on page 76.

Mr. Keyes offered the following amendment:

Amend LB 1 by adding a new section as follows:

If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.

Mr. D. Dworak requested a record vote on the Keyes amendment.

Voting in the affirmative, 20:

Cullan	Fitzgerald	Kennedy	Maresh	Murphy
Duis	Fowler	Keyes	Merz	Rasmussen
E. Dworak	Goodrich	Labedz	Mills	Stoney
D. Dworak	Hefner	Lamb	Moylan	Venditte

Voting in the negative, 22:

Bereuter	Cope	Koch	Marvel	Simon
Brennan	DeCamp	Kremer	Newell	Warner
Burrows	George	F. Lewis	Nichol	
Carsten	Kahle	Luedtke	Reutzel	
Clark	Kelly	Marsh	Rumery	

Present and not voting, 5:

Emry            Hasebroock   Maxey            Savage            Schmit

Excused and not voting, 2:

Chambers      R. Lewis

The amendment lost with 20 ayes, 22 nays, 5 present and not voting, and 2 excused and not voting.

Advanced to E & R for Engrossment.

### SELECT COMMITTEE REPORT Enrollment and Review

**LEGISLATIVE BILL 4.** Placed on Select File.

(Signed)    Samuel K. Cullan, Chairman

### SELECT FILE

**LEGISLATIVE BILL 5.** E & R amendments found in this day's Journal were adopted.

Advanced to E & R for Engrossment.

### MOTION - Return LB 2 to Select File

Mr. Warner moved to return LB 2 to Select File for the following specific amendment:

#### AMENDMENTS TO LB 2

- 1        1. Insert the following new sections:
- 2        "Sec. 7. Any person who signs a petition under sec-
- 3        tion 2 of this act, knowing that he or she is not a qualified
- 4        voter in the place where such a petition is made, or bribes
- 5        or gives or pays any money or thing of value to any person
- 6        directly or indirectly to induce him or her to sign the peti-
- 7        tion, shall be guilty of a Class III misdemeanor.
- 8        Sec. 8. The statutes of this state relating to elec-
- 9        tion officers, voting places, election apparatus and blanks,
- 10       preparation and form of ballots, information to voters,
- 11       delivery of ballots, calling of elections, conduct of elec-
- 12       tions, manner of voting, counting of votes, records and
- 13       certificates of election, and recounts of votes, so far as
- 14       applicable, shall apply to voting on the question of ex-
- 15       ceeding a budget limitation by the voters under the provisi-

16 sions of this act.''.  
17

2. Renumber remaining sections accordingly.

The motion prevailed with 29 ayes, 0 nays, 18 present and not voting, and 2 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 2.** The Warner specific amendment found in this day's Journal was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Advanced to E & R for Re-engrossment.

Mr. Kelly asked unanimous consent to be excused. No objections. So ordered.

### **UNANIMOUS CONSENT - Unbracket LR 1**

Mr. Warner asked unanimous consent to unbracket LR 1 on E & R Final. No objections. So ordered.

### **MOTION - Return LR 1 to Select File**

Mr. Warner moved to return LR 1 to Select File for the specific amendment found in the Journal on page 63.

The motion prevailed with 27 ayes, 0 nays, 19 present and not voting, and 3 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE RESOLUTION 1.** The Warner specific amendment found in the Journal on page 63 was adopted with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

Advanced to E & R for Engrossment.

**LEGISLATIVE BILL 4.** Advanced to E & R for Engrossment.

### **MOTION - Return LB 2 to Select File**

Mr. Koch moved to return LB 2 to Select File for the specific amendment found in the Journal on page 74.



Mr. Koch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Koch motion prevailed with 31 ayes, 0 nays, 15 present and not voting, and 3 excused and not voting.

### **SELECT FILE**

**LEGISLATIVE BILL 2.** The Koch specific amendment found in the Journal on page 74 was adopted with 34 ayes, 0 nays, 12 present and not voting, and 3 excused and not voting.

Advanced to E & R for Re-engrossment.

Mr. Venditte asked unanimous consent to be excused for the remainder of the day. No objections. So ordered.

### **MOTION - Return LB 2 to Select File**

Mr. Warner moved to return LB 2 to Select File for the specific amendment found in the Journal on page 85.

The motion prevailed with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

### **SELECT FILE**

The Warner specific amendment found in the Journal on page 85 was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Advanced to E & R for Re-engrossment.

### **MOTION - Rule Change**

Mr. Reutzel offered the following rule change:

- 1) Require 30 votes to raise a bill from committee if after 20 days from the date of the public hearing a bill has not been acted upon.
- 2) Require 33 votes to raise a bill from committee if the bill was killed.

Referred to the Rules Committee.

**UNANIMOUS CONSENT - Print in Journal**

Mr. Koch asked unanimous consent to print the following in the Journal. No objections. So ordered.

**COMMENTS ON STRIKING OF KOCH AMENDMENT  
TO LB 1, Page 60 of Legislative Journal**

The Koch amendment clarified who could vote in a special election to exceed the 7% budget limitation. In sanitary improvement districts, voters can ordinarily be residents or non-residents of the district as long as they own property in the district. This amendment clarified that voters for special election purposes are those who are authorized to vote for the governing members of the S.I.D.

Striking the Koch amendment is not meant to indicate that only resident voters can vote in the special election to exceed budget limitations. The Legislature intends that those who can vote at such a special election are those persons who are authorized to vote for the members of the governing body of such a political subdivision, and that "those voting" in line 15 of page 4 of LB 1 must come from those who are thus authorized.

**RECESS**

At 3:34 p.m., on a motion by Speaker Luedtke, the Legislature recessed until 4:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 4:30 p.m., President Whelan presiding.

**ROLL CALL**

The roll was called and all members were present except Messrs. Bereuter, Chambers, DeCamp, E. Dvorak, Goodrich, Kelly, Labeledz, F. Lewis, R. Lewis, Merz, Schmit, Simon, and Venditte who were excused.

**UNANIMOUS CONSENT – Member Excused**

Mr. Moylan asked unanimous consent to be excused Tuesday, June 27, 1978. No objections. So ordered.

**ANNOUNCEMENT**

Mr. Marvel announced an Executive Board meeting at noon Tuesday, June 27, 1978, unless we adjourn earlier.

**ADJOURNMENT**

Speaker Luedtke moved to adjourn until 11:00 a.m. The motion prevailed with 22 ayes, 3 nays and 24 not voting.

At 4:36 p.m., the Legislature adjourned until 11:00 a.m., Tuesday, June 27, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature



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**SIXTH DAY - JUNE 27, 1978**

**LEGISLATIVE JOURNAL**

**SIXTH DAY - JUNE 27, 1978**

**LEGISLATIVE JOURNAL**

**EIGHTY-FIFTH LEGISLATURE  
SECOND SESSION**

**SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, June 27, 1978

Pursuant to adjournment, the Legislature met at 11:00 a.m.,  
President Whelan presiding.

**PRAYER**

The prayer was offered by the Chaplain.

Father in Heaven, as the heat of the summer months, give us the graciousness to take the heat off of as many people as we can. In the final days of the current biennium, some corners are being cut and some budgets are growing.

Let each of these citizens representing the State be wise and courageous in their stands.

Give them the insight so that in the future they may stand before God and all the people and say, "I represented Your people justly and well, Father."

**ROLL CALL**

The roll was called and all members were present except Messrs. Burrows, Fitzgerald, Keyes, Moylan, Newell, Savage, Simon, and Venditte who were excused; and Messrs. Koch and R. Lewis who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the Fifth Day was approved.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review**

**LEGISLATIVE RESOLUTION 1.** Replaced on Select File as amended.

E & R amendment to LR 1:

1. On page 4, strike lines 19 to 21 and insert  
"the State Board of Equalization and Assessment fix separate  
and distinct tax levies and equalize assessments of property  
among counties as prescribed."

**LEGISLATIVE BILL 2.** Replaced on Select File as amended.

E & R amendments to LB 2:

1. Renumber section 8, added by the Warner  
amendment found on page 85 of the Journal, as section 10  
and original section 8 as section 11.

2. In the title, line 3, insert "to provide  
a penalty;" after the semicolon.

(Signed) Samuel K. Cullan, Chairman

**ATTORNEY GENERAL'S OPINION**

Opinion No. 257

June 26, 1978

Dear Senator Newell:

You have requested the opinion of this office regarding whether LB 1 is within the Governor's proclamation calling this Special Legislature into session.

Specifically, you have asked whether section 1(1) of LB 1 is outside the call since it places a limitation upon a particular revenue source for a budget rather than an actual limitation on the government budget.

Section 1 of LB 1 amends section 77-1355, 1977 Supp. When you draw our attention to subsection (1) of section 1, we assume you are speaking of subsection (1) of 77-1355. That subsection appears to limit that portion of the budgets of political subdivisions which are funded by ad valorem taxes to an increase of seven per cent except for certain exceptions contained therein, which are not pertinent hereto. We do not agree with the assumption contained in your request that section 1 constitutes a limitation upon a particular revenue source rather than a limitation upon a political subdivision budget. By the

terms of subsection 1 that portion of the budget funded by ad valorem taxes is limited. That does not necessarily limit the taxes which could be levied, but merely limits the funds which could be spent. Therefore, we believe that LB 1, section 1, as it amends section 77-1355 (1), falls directly within the Call of the Governor.

Even assuming that section 1 of LB 1 does constitute a limitation on revenue sources, however, we believe that that also would fall within the Call of the Governor. It is a well established proposition of law that the Legislature, while in a Special Session, can transact no business except that for which it was called together under Article IV, Section 8, of the Constitution of Nebraska. The Supreme Court of Nebraska has stated the test to be applied in determining whether legislation enacted is within the scope of the Call in Arrow Club, Inc. v. Nebraska Liquor Commission, 177 Neb. 686, 131 N.W.2d 134 (1964). The court therein stated on page 690:

“The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The purpose or subject as stated in the proclamation is to be determined by an analysis and construction of the proclamation as in the case of any written instrument. . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction.”

The inevitable effect of limiting government income from taxes is also to in some way limit government expenditures. Therefore, we believe that a limitation upon levying taxes could be constitutionally defended as being within a call to limit government expenditures since it relates to, is germane to, and has a natural connection with that purpose.

In conclusion, it is the opinion of this office that section 1 of LB 1, as it amends section 77-1355(1), is within the proclamation of the Governor calling the Legislature into Special Session and could be constitutionally defended against such an attack.

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

GBS:ejg

cc Mr. Patrick J. O'Donnell  
Acting Clerk of the Legislature



**SELECT FILE**

**LEGISLATIVE RESOLUTION 1.** E & R amendments found in this day's Journal were adopted.

Advanced to E & R for Engrossment.

**LEGISLATIVE BILL 2.** E & R amendments found in this day's Journal were adopted.

Advanced to E & R for Engrossment.

**ANNOUNCEMENT**

Mr. Carsten announced a meeting of the Committee on LR 156, Wednesday, June 28, 1978, immediately following adjournment.

**MOTION - Suspend Rules**

Mr. Warner moved to suspend the rules, Rule 3, Sec. 10b, to consider a motion to place LB 6 on General File.

The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

**ANNOUNCEMENT**

Mr. Maresh announced the Business and Labor Committee will meet upon adjournment on Wednesday, June 28th, instead of 1:00 in Room 1019, for an organizational meeting.

**SELECT COMMITTEE REPORTS**

**Enrollment and Review**

**Correctly Re-Engrossed**

The following bill was correctly re-engrossed: 2.

**Correctly Engrossed**

The following bills was correctly engrossed: 1, 4, 5, and LR 1.

(Signed) Samuel K. Cullan, Chairman

**MOTION - Place LB 6 on General File**

Mr. Warner moved to place LB 6 on General File.

The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

**RESOLUTIONS**

**LEGISLATIVE RESOLUTION 15.** Read. Considered.

The Chair ruled this Resolution is out of order and beyond the Call of the Special Session.

Mr. Maresh challenged the ruling of the Chair. The question is, "Shall the Chair be overruled?"

The motion prevailed with 28 ayes, 2 nays, and 19 not voting.

The Chair was overruled.

LR 15 was adopted with 26 ayes, 1 nay, and 22 not voting.

**LEGISLATIVE RESOLUTION 18.** Read. Considered.

LR 18 was adopted with 27 ayes, 0 nays, and 22 not voting.

**LEGISLATIVE RESOLUTION 20.** Read. Considered.

LR 20 was adopted with 31 ayes, 0 nays, and 18 not voting.

**UNANIMOUS CONSENT - Print in Journal**

Mr. Warner asked unanimous consent to print the following amendments to LB 6 in the Journal. No objections. So ordered.

**AMENDMENTS TO LB 6**

- 1        1. On page 312 strike beginning with the underscored
- 2        comma in line 12 through "cent".
- 3        2. On page 313, line 9 strike "1980" and insert
- 4        "1978, in any county which has had (1) a general reappraisal
- 5        of all lands and improvements in such county since 1976
- 6        which has been fully implemented without reduction of values,
- 7        or (2) a change in assessed valuation made by the State
- 8        Board of Equalization and Assessment pursuant to Article
- 9        IV, section 28 of the Constitution of Nebraska or section
- 10       77-506"; after the underscored period in line 11 insert:
- 11       "If the total budget requests of the political subdivisions authorized
- 12       to levy a tax or cause a tax to be levied exceed the revenue derived

13 from an ad valorem tax equal to two per cent of the actual value of the  
14 property, funds shall be apportioned among the political subdivisions.  
15 The amount granted to each political subdivision shall be proportionately  
16 reduced in the same proportion that the previous year's budget funded  
17 by ad valorem taxes of each political subdivision bears to the total pre-  
18 vious year's budget funded by ad valorem taxes of all political  
subdivisions."

19 3. Strike original section 265 and insert the fol-  
20 lowing:

21 "Sec. 265. Sections 1 to 260 and 274 of this act  
22 shall become operative on April 1, 1984. The other sec-  
23 tions of this act shall become operative on their effective  
24 date.

25 Sec. 266. (1) if it is presumed that the assessed  
26 valuations of property are correct and that property is  
27 assessed at thirty-five per cent of its actual value, when a political  
subdivision authorized to levy a tax or cause a tax to be  
2 levied lies in two or more counties and one or more, but not  
3 all, of such counties completes a general reappraisal of  
4 all lands and improvements, it becomes obvious that the  
5 effect of such reappraisal will require some property owners  
6 to pay more taxes than they would otherwise pay and that  
7 the valuation of property will not be uniform.

8 (2) Since the valuation of property must be uniform  
9 unless a separate classification rests on some reasonable  
10 public policy, some substantial difference of situation, or  
11 circumstances that would naturally suggest the justice or  
12 expediency of diverse legislation, the State Board of Equali-  
13 zation and Assessment shall determine what proportion of  
14 the budget of a political subdivision lying in two or more  
15 counties, where one or more of such counties have not com-  
16 pleted a reappraisal of all lands and improvements within  
17 three years of one another, shall be paid by each county.

18 Sec. 267. The State Board of Equalization and Assess-  
19 ment, when making computations under section 268 of this act,  
20 shall separately identify (1) the increased assessed valua-  
21 tion due to improvements made to real property during the  
22 preceding calendar year over the previous year's assessed  
23 valuations, (2) valuations attributable to centrally-assessed  
24 property, and (3) valuations attributable to personal prop-  
25 erty. The State Board of Equalization and Assessment shall  
26 adjust levies so that tax levies applied to centrally-  
27 assessed property and personal property will be uniform  
1 throughout the political subdivision. The State Board of  
2 Equalization and Assessment shall, when determining the  
3 percentage change in assessed valuations for real property  
4 in a county which has completed a general reappraisal,  
5 not consider increases due to improvements made during the  
6 preceding calendar year over the previous year's assessed  
7 valuations.

8 Sec. 268. Commencing with each tax year in which a  
9 general reappraisal of all real property becomes applicable  
10 for any county in a political subdivision authorized to

11 levy a tax or cause a tax to be levied, where one or more  
12 of such counties have not completed general reappraisal  
13 within three years of one another, the State Board of Equal-  
14 ization and Assessment shall determine the proportion of the  
15 entire budget to be contributed by each county within the  
16 political subdivision and fix separate and distinct tax  
17 levies, if necessary, at a rate which, when applied to the  
18 assessed valuations of property within such part of the  
19 political subdivision in each respective county, will  
20 raise the amount of taxes apportioned for such county pur-  
21 suant to this section.

22 Sec. 269. In the event it shall appear to the State  
23 Board of Equalization and Assessment that a just, equitable,  
24 or legal assessment of the real property in the multicounty  
25 taxing jurisdiction cannot be made without increasing or  
26 decreasing tax levies, the board shall issue a notice to  
27 each taxpayer or his agent affected by such change, if such  
1 person or his agent can be found in the county, and shall  
2 set a date for hearing at least five days following the  
3 time of such notice. The board may direct the Tax Commis-  
4 sioner to hold such hearings to expedite the equalization  
5 process.

6 Sec. 270. At the hearing provided by section 269 of  
7 this act, any person may appear and show cause why the  
8 tax levy should not be increased or decreased by the State  
9 Board of Equalization and Assessment, and after a full  
10 hearing, either by the board or Tax Commissioner, the board  
11 not later than August 15 shall enter its order and certify  
12 the same to the county clerks or officers with the duty of  
13 making up the tax list of the proper counties.

14 Sec. 271. Any person, county, or municipality affected  
15 by a final decision of the State Board of Equalization and  
16 Assessment under section 270 of this act may appeal to the  
17 Supreme Court. Notice of intention to obtain a review shall  
18 be filled within ten days from the date of the entry by the  
19 board.

20 Sec. 272. (1) Upon completion and implementation of  
21 a general reappraisal of all real property and improvements  
22 in each county of the state made after 1976 the State Board  
23 of Equalization and Assessment shall reduce all tax levy  
24 authorizations in an amount proportionate to the percentage  
25 increase in assessed valuations as determined under subsec-  
26 tion (2) of this section.

27 (2) The Tax Commissioner shall determine the statewide  
1 percentage increase in assessed valuations for real property,  
2 other than centrally-assessed property, which is not due to  
3 improvements made since the last reappraisal.

4 (3) Such changed tax levy authorizations shall re-  
5 main as the maximum limit until specifically provided other-  
6 wise by law."

7 4. On page 315 strike line 23 and strike through the  
8 second comma in line 24.

9 5. Renumber original sections 266 to 268 as sections

10 273 to 275 respectively.

## RESOLUTION

### LEGISLATIVE RESOLUTION 21.

Introduced by Hefner, 19th District.

WHEREAS, Jules W. Burbach was elected to membership in the Legislature in 1956, and served the people of the nineteenth district and the entire State of Nebraska for twenty distinguished years; and

WHEREAS, he served as Chairman of the Revenue Committee from 1961 until 1975, utilizing outstanding leadership and wise counsel in processing major items of revenue legislation; and

WHEREAS, he served the Legislature with distinction as its Speaker during the 1975 and 1976 sessions, appropriately guiding the Legislature in the performance of its duties; and

WHEREAS, his many accomplishments over his twenty years as a Legislator will be a lasting monument to him and of lasting benefit to Nebraska and Nebraskans.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That in tribute to Jules W. Burbach the Legislature hereby gives its approval of the proposal to rename that portion of Lewis and Clark State Recreation Area commonly referred to as Weigand West, as Jules W. Burbach Park.

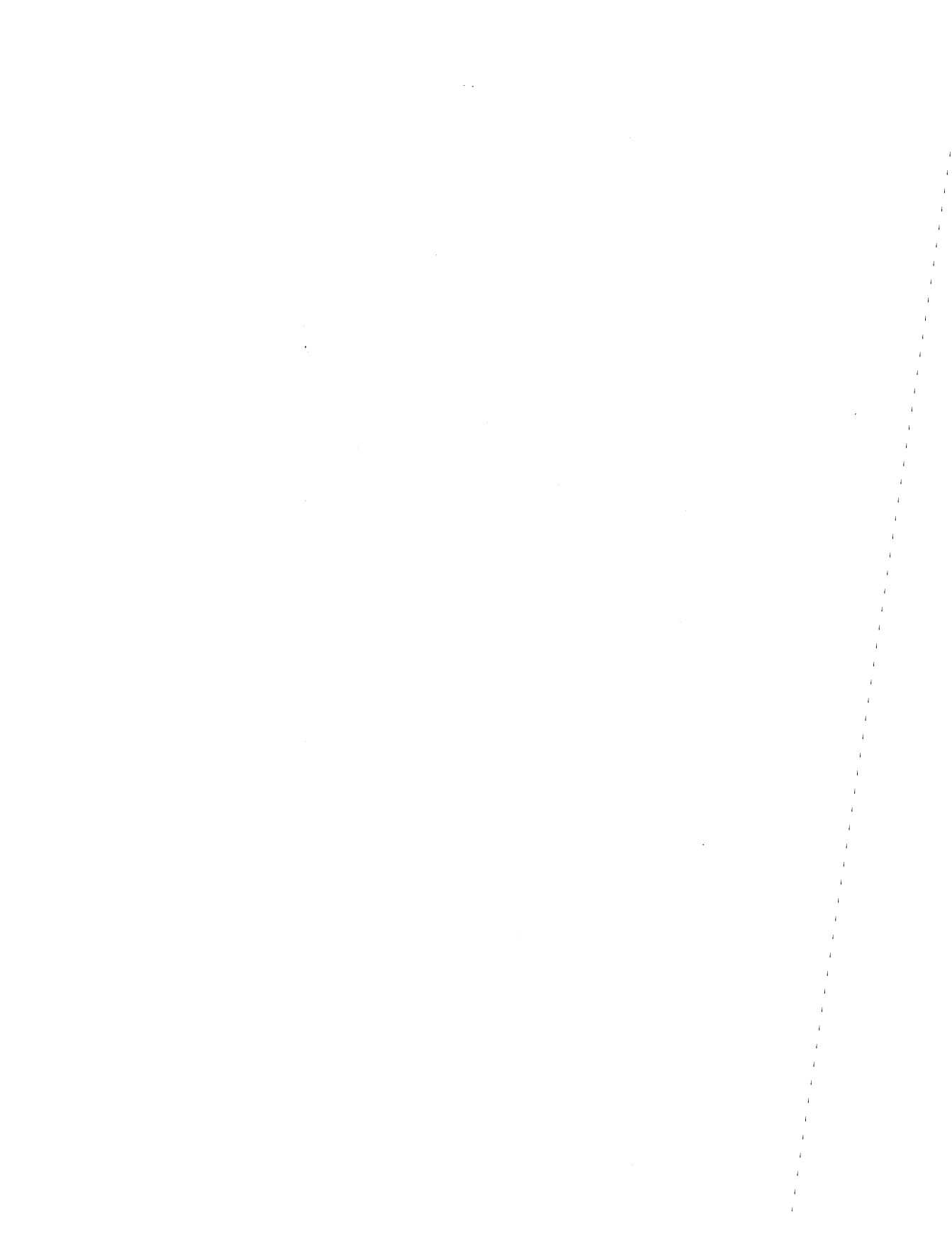
2. That a copy of this resolution be furnished to Jules W. Burbach, the Game and Parks Commission, and the State Building Advisory Commission.

Laid over.

## ADJOURNMENT

At 11:52 a.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m, Wednesday June 28, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature



SEVENTH DAY - JUNE 28, 1978

LEGISLATIVE JOURNAL

**SEVENTH DAY - JUNE 28, 1978**

**LEGISLATIVE JOURNAL**

**EIGHTY-FIFTH LEGISLATURE  
FIRST SPECIAL SESSION**

**SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, June 28, 1978

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

**PRAYER**

The prayer was offered by the Chaplain.

Almighty God, as we strive to put a lid on our spending, and realize the necessity of restraint in our budgets, we pray that you will liberate our spirits to think great thoughts, elevate our minds to see larger truths, and enlarge our hearts to care for all people. With the resources of an infinite God available to those who ask, forgive us for any lack of faith that begs for pennies when we could write checks for millions; that strikes a match when we could have the sunshine. Give us the faith to believe that there is no problem before us that Your wisdom cannot solve. As you have guided us in the past, so guide us today. At every desk may there be the whisper of Your counsel. Help our Senators to weigh their words, that their words may carry weight, and, what is more, the echo of Your will. Amen.

**ROLL CALL**

The roll was called and all members were present except Mr. Fitzgerald who was excused; Messrs. Chambers, Koch, R. Lewis, Marvel, Merz, Mills, Nichol, Schmit, and Venditte who were excused until they arrive.



**CORRECTIONS FOR THE JOURNAL**

The Journal for the Sixth Day was approved.

**REFERENCE COMMITTEE REPORT****LR Committee**

- 8 Gov. Mil. & Vets. Affs. (Rasmussen, Chairman)
- 19 Committee on Oversight (Carsten, Chairman)

(Signed) Richard D. Marvel, Chairman

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR18 and LR20.

**MOTION - Contact Governor**

Mr. F. Lewis moved that Senator Keyes and Senator Dworak be appointed to approach the Governor and request of him his desires in regard to the Attorney General's opinion regarding L.B. 1.

The Chair ruled the motion out of order.

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 12. With Emergency.**

A BILL FOR AN ACT to amend section 28-1341, Revised Statutes Supplement, 1977, as amended by section 54, Legislative Bill 748, Eighty-fifth Legislature, Second Session, 1978, relating to the Nebraska Criminal Code; to change the operative date of a repeal section; to repeal the original section; and to declare an emergency.

Whereupon the President stated: All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 39:

Emry	DeCamp	Hefner	F. Lewis	Rasmussen
Bereuter	Duis	Kahle	Luedtke	Reutzel
Brennan	E. Dvorak	Kelly	Maresh	Rumery
Burrows	D. Dworak	Kennedy	Marsh	Savage
Carsten	Fowler	Keyes	Marvel	Simon
Clark	George	Kremer	Mills	Stoney
Cope	Goodrich	Labedz	Moylan	Warner
Cullan	Hasebroock	Lamb	Murphy	

Voting in the negative, 1:

Chambers

Present and not voting, 1:

Maxey

Excused and not voting, 8:

Fitzgerald	R. Lewis	Newell	Schmit
Koch	Merz	Nichol	Venditte

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

## RESOLUTIONS

**LEGISLATIVE RESOLUTION 16.** Read. Considered.

LR 16 was adopted with 35 ayes, 0 nays, and 14 not voting.

**LEGISLATIVE RESOLUTION 17.** Read. Considered.

LR 17 was adopted with 33 ayes, 0 nays, and 16 not voting.

**LEGISLATIVE RESOLUTION 21.** Read. Considered.

LR 21 was adopted with 34 ayes, 0 nays, and 15 not voting.

**SELECT COMMITTEE REPORT**  
**Enrollment and Review****Correctly Enrolled**

The following bill was correctly enrolled: 12.

(Signed) Samuel K. Cullan, Chairman

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following bill: 12.

**MOTION - Adjournment**

Mr. Simon moved to adjourn sine die.

Mr. Simon requested a record vote.

Voting in the affirmative, 10:

E. Dvorak	Kahle	Labeledz	F. Lewis	Savage
Hasebroock	Kelly	Lamb	Murphy	Simon

Voting in the negative, 26:

Emry	Cullan	Keyes	Maxey	Stoney
Bereuter	DeCamp	Kremer	Mills	Warner
Burrows	Duis	Luedtke	Moylan	
Carsten	D. Dworak	Maresh	Reutzel	
Clark	Hefner	Marsh	Rumery	
Cope	Kennedy	Marvel	Schmit	

Present and not voting, 5:

Brennan	Fowler	George	Goodrich	Rasmussen
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Excused and not voting, 8:

Chambers	Koch	Merz	Nichol
Fitzgerald	R. Lewis	Newell	Venditte

The motion lost with 10 ayes, 26 nays, 5 present and not voting, and 8 excused and not voting.

## ATTORNEY GENERAL'S OPINION

Opinion No. 259June 27, 1978

Dear Senator Kelly:

You refer to an amendment to LB 5 as offered by Senator DeCamp on June 26, 1978. A copy of that amendment is enclosed with your letter. On page 95 you call our attention to section 7 of the amendment which refers to "a court of competent jurisdiction." The quoted phrase refers to a decision by a court of competent jurisdiction as it affects the budget limits provided in the bill. You wish to know whether the Nebraska Court of Industrial Relations is a court of competent jurisdiction.

Section 48-803, R.R.S. 1943, provides as follows:

"In order to carry out the public policy of the State of Nebraska as set forth in section 48-802, there is hereby created an industrial commission to be known as the Court of Industrial Relations."

Section 48-802, R.R.S. 1943, in part states as follows:

"To make operative the provisions of section 9, Article XV, of the Constitution of Nebraska, the public policy of the State of Nebraska is hereby declared to be as follows: . . ."

It is clear that the Court of Industrial Relations is an industrial commission. This was made clear in the case of School District of Seward Education Association v. School District of Seward, 188 Neb. 772, 199 N.W.2d 752.

The Court of Industrial Relations is not a court created under Article V of the Constitution of Nebraska. We therefore do not believe that it could be considered a court of competent jurisdiction as referred to in the amendment to LB 5.

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gerald S. Vitamvas  
Deputy Attorney General

GSV:smb

cc: Mr. Patrick O'Donnell  
Acting Clerk of the Legislature

**RESOLUTION**

**LEGISLATIVE RESOLUTION 22.**

Introduced by Maxey, 46th District; Burrows, 30th District.

WHEREAS, the quality of food is important to the health and physical well-being of the residents of the State of Nebraska; and

WHEREAS, food processors are subject to rules and regulation promulgated by the Agriculture Department; and

WHEREAS, the rules are designed to insure that only sanitary, wholesome, and safe food is sold to consumers; and

WHEREAS, the use of salvaged meat in meat products was initially proposed by the Agriculture Department more than two years ago but was halted by consumer groups; and

WHEREAS, the Agriculture Department has announced beginning July 20 it will allow meat processors to grind up bones and include the finely ground bone in frankfurters and salami.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature go on record as opposing the use of ground bones in meat products.

2. That a copy of this resolution be sent to Assistant Secretary Carol Tucker Foreman, Department of Agriculture.

Laid over.

**EXPLANATION OF VOTE**

If I had been present and voting, I would have voted yes for LB 12.

(Signed) J. A. Maxey

**PRESENTED TO GOVERNOR**

Presented to the Governor on June 28, 1978, at 9:37 a.m., was the following bill: 12.

(Signed) Hazel Kaltenberger, Enrolling Clerk

**GENERAL FILE**

**LEGISLATIVE BILL 6.** Title read. Considered.

Mr. Warner renewed his pending amendment found in the Journal on page 118.

The amendment was adopted with 25 ayes, 0 nays, 15 present and not voting, and 9 excused and not voting.

Mr. Simon offered the following amendment:

To strike Section #264 of LB 6.

Mr. Clark moved the previous question. The question is, "Shall the debate now close?" The motion lost with 18 ayes, 10 nays, and 21 not voting.

The Simon amendment lost with 9 ayes, 16 nays, 16 present and not voting, and 8 excused and not voting.

Mr. Warner moved to bracket LB 6. The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

**PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR16, LR17, and LR21.

**VISITORS**

The President introduced Abdelaziz El-Ayadhi, Deputy of the National Assembly of Tunisia, Steve Belcher, Escort, interpreter of the State Department, Nancy Bridenbaugh, Programmer for the Mayor's Committee for International Friendship; and Reverend Elwood Fleming, editor of the United Methodist Messenger from Lincoln, Nebraska.

**RECESS**

At 10:58 a.m., on a motion by Speaker Luedtke, the Legislature recessed until 2:00 p.m.

**AFTER RECESS**

The Legislature reconvened at 2:00 p.m., President Whelan presiding.

**ROLL CALL**

The roll was called and all members were present except Messrs. Burrows, Clark, Duis, Fitzgerald, F. Lewis, and Merz who were excused; Messrs. Chambers, Fowler, R. Lewis, Newell, Nichol, Rasmussen, Simon, and Venditte who were excused until they arrive.

**EXPLANATION OF VOTE**

If I would have been present I would have voted "aye" for LB 12 on Final Reading.

(Signed) Tom Fitzgerald

**RESOLUTION****LEGISLATIVE RESOLUTION 23.**

Introduced by Constitutional Revision and Recreation Committee: Koch, 12th District, Chairman.

WHEREAS, American citizens are growing more vocal in their objections to heavy tax burdens brought about by ever increasing government spending; and

WHEREAS, various actions within several states, such as reduction of property taxes by popular vote, point dramatically to the intention of American taxpayers to take affirmative action in an effort to gain tax relief; and

WHEREAS, much public attention is now being focused upon obtaining relief from taxation from all governmental taxing entities, including the Federal Government; and

WHEREAS, any reduction or termination of revenue to a governmental taxing entity because of lowered taxes suggests the necessity of a planned limitation on growth in spending by governmental taxing entities; and

WHEREAS, any meaningful federal, state, or local government spending limitations developed in response to such strong public support, should be imposed in such a manner that it may be expunged only by an equally strong call of the people.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Congress of the United States take appropriate action to adopt a Constitutional Amendment which will assure a predictable and reasonable limitation on the growth of spending by the Federal Government.

2. That the Clerk of the Nebraska Legislature transmit a copy of the Resolution to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Nebraska Congressional delegation, and to the Legislatures of each of the several states.

Laid over.

### ATTORNEY GENERAL'S OPINION

Opinion No. 260  
June 28, 1978

Dear Senator Warner:

You have asked for our opinion on a series of bills presently pending in the Legislature concerning limitations upon spending by governmental units. You specifically refer to L.B. 1, L.B. 2, L.B. 4, and L.B. 5, 85th Legislature, First Special Session, 1978. You request that we review these bills for any constitutional problems, as well as any vagueness or ambiguity problems.

We will analyze each of the bills respectively in this letter. As an initial matter, however, we would point out that L.B. 1 and L.B. 5 impose a statutorily enacted budget limitation of seven and five percent on all governmental subdivisions in the State of Nebraska. Certain aspects of that action raise some constitutional questions.

Establishing a uniform budget limit on all subdivisions poses a classification question. The Legislature is free to classify for purposes of legislation except that unreasonable or arbitrary classifications must be avoided. In L.B. 1 and L.B. 5, the question is whether limiting all subdivisions of the state to a stated percentage increase in budgets operates so unevenly as to constitute an unreasonable classification. Similar subdivisions may have different base year budgets. A limitation as envisioned would mandate different budget levels for such units. This may be an unreasonable classification. However, the provisions for a vote of the people to alter this result



may alleviate the classification problem. We are not prepared at this point to make a determination as to constitutionality or unconstitutionality. We merely wish to point out the problem.

L.B. 1

L.B. 1, section 1, amends section 77-1355 so as to establish a limit of seven percent on that portion of political subdivisions'(sic) budget funded by ad valorem taxes. In section (1)(a), the bill authorizes an increase in the budget limit by the amount of receipts "... lost or to be lost" from any state source. We have attempted to discern how a political subdivision loses or may lose receipts from state sources. A subdivision is entitled to money from state sources by statute or constitutional provision. If the entitlement exists, the political subdivision will receive the money. If no entitlement exists, the political subdivision will not receive the money. It appears the bill intends to say that budget limitations may be increased where past payments from state sources to the political subdivisions are reduced from a level previously existing. However, such an action could not be characterized as a "loss" from state sources. If the intention of the Legislature is to allow political subdivisions to make up for revenue previously supplied by the state that will no longer be supplied, we would suggest the use of a different phrase in place of the words "receipts lost or to be lost from any state sources," such as "the reduction of previous levels of receipts from state sources."

In section 2, on page 5, the following language appears:

"The governing body of the political subdivision shall prescribe the form of the ballot to be used at the election, and the proposition appearing on such ballot shall state the percentage which is proposed to be substituted for the percentage limitation imposed by this act. . . ." (Emphasis added).

The use of the phrase "substituted for the percentage limitation imposed by this act," suggests the possibility that such an election would result in an new permanent limit being imposed. The bill is ambiguous as to whether the new limit imposed by election is to operate permanently or only for one year. It is our understanding that the intention of the Legislature is that it operate for only one budget year. If the intention of the Legislature in enacting this bill is to allow only annual deviations from the general statutory limit by special election, other language should be selected than that pointed out above which would particularly convey such intention of the Legislature.

L.B. 2

L.B. 2 is denominated the Local Option Tax Control Act. It authorizes the voters of political subdivisions to determine that a limitation of its budget funded by ad valorem taxes is required. Section 4 of L.B. 2, in part, provides:

“When a budget limitation is approved by the voters at a primary or special election held for such purpose, the budget for the year in which taxes will be levied to fund such budget shall, . . . be limited as provided in the petition or resolution and each fiscal year thereafter the budget may be adjusted from the previous year’s budget so as not to exceed any limitation provided by the petition or resolution.”

The language utilized in section 4 appears to make applicable any budget limitation adopted by the voters at an election to the budget for the year when taxes are to be levied. Most counties generally levy taxes on September 1 of each year to be imposed and collected commencing January 1 of the following year. All counties are on a fiscal year of July 1 to June 30 with the exception of Douglas County which operates on a calendar year, January 1 to December 31. Other subdivisions of government have different fiscal years. School districts’ fiscal years commence September 1. The election provided for must be had before August 15 of any year. The limitation on the budget for the year during which the levy is to be made, could affect an already established budget. In some cases, this could occur well into the fiscal year. For instance, in Douglas County over half of the budget year could be gone before an election occurred. This might create substantial difficulties for such subdivisions. This also raises the question of impairment of contracts. Any impairment could be in violation of Article 1, section 16, of the Nebraska Constitution. Impairment of contracts would only occur where a contract or contracts existed that required expenditure of an amount in excess of the limit imposed. Such a situation(sic) is unlikely to occur since other adjustments normally could be made. Only in an isolated case might the act be invalid.

In the second half of subsection 4 it is provided that any limitation shall also be applicable for the years succeeding the year of adoption. In sections 5 and 6 of the bill, the petition, resolution, and the ballot question submitted to the voters are to provide for a budget limitation in terms of both dollars and percentages over the current budget. As we understand the intent of the bill overall, it is that each year the increase in the budget authorized shall not exceed a fixed percentage. If the limitation is stated in both dollars and percent, the second year

dollar limitations will be different than those of the first year using the same percentage increase limitation. That would continue to be true in succeeding years. It should be made clear that the percentage limitation is to be effective on an annual basis and not the dollar limitation, assuming that is the intent of the Legislature.

A similar difficulty arises with respect to the issue to be submitted to the voters. As we understand the intent of L.B. 2, it is to authorize the establishment of a budget increase limitation. The form called for in section 6(2) to be presented to the voters is to state the budget limitation in terms of dollars and percentages over the current budget proposed to be adopted for the succeeding year. To conform to the intent of the bill, section 6(2) should provide that the question submitted to the voters should be: "shall a budget limitation of      percentage be adopted." The voters should also be notified the limitation will be of continuing effect. Some problem would exist in our view if the question were presented to the voters in the form called for under section 6(2), since voters are nowhere informed of the permanence of the limitation. Any statement of a ballot question in terms so misleading or confusing as to render it unlikely that the voters would fully understand the proposition to be voted on could be held to have worked a fraud on the voters and thus be ineffective.

Section 5 also contains confusing language. The last sentence provides that "[A]ll such elections shall be held prior to August 15 of the year in which taxes will be levied to fund the budget." It is unclear whether that section refers to the fiscal year or the calendar year appropriate to the particular subdivision. The apparent intent of the legislation is to hold the election during any calendar year notwithstanding whatever fiscal year may exist for the particular subdivision involved.

Subsection 8 in line 25 provides ". . . the question of exceeding a budget limitation. . . ." This appears to be a drafting error. The word that should be used there is "establishing" rather than "exceeding."

The final technical difficulty that we find with L.B. 2 is after the establishment of a budget limitation, it is unclear how to alter the limitation previously established. It is unclear that the same procedure utilized in establishing a budget limitation by the voters is also to be followed to alter, revoke or amend the limit. In order to clearly specify the legislative intent, a section should be added which provides a manner of altering, amending or revoking the limitation. While we believe that the bill might be subject to an interpretation to allow the use of the procedures followed in establishing a limitation to revoke, amend or repeal such limitation, it would be preferable that the Legislature clearly specify their intent in this regard.

L.B. 4

L.B. 4 is an act to establish a limitation of five percent on the state General Fund and Building Fund for the 1979-1980 fiscal year. This provision appears to conflict directly with Article III, section 22 of the Constitution. Article III, section 22, in part, provides:

“Each Legislature shall make appropriation for the expenses of the government. . . .”

This particular piece of legislation is an attempt by this Legislature to limit the constitutional power of the next Legislature to make appropriation for the expenses of government. While the subsequent Legislature could voluntarily honor such an intention to limit expenditures expressed in a bill such as L.B. 4, it would have no constitutionally binding effect on the subsequent Legislature. This is especially so since L.B. 4 provides for a budget limitation of five percent on the General and State Building Funds solely for the fiscal year 1979-1980 and no other fiscal year subsequent to that date.

Furthermore, it is interesting to note that a number of appropriations would not be considered in determining whether or not the five percent figure was exceeded. These would include payments as a result of a court decision based on the Constitution of the United States or the State of Nebraska, but would not include decisions based on statutory law. Also not to be considered are any statutorily mandated aid payments to political subdivisions, such as, school aid, should L.B. 33 survive the referendum vote pending against it; personal property tax relief; homestead relief; or claims against the state.

L.B. 5

L.B. 5, establishes an immediate five percent limitation on political subdivisions' budgets for the fiscal year 1978-1979. In section 1, line 16, the bill provides:

“No tax shall be levied or an amount budgeted in excess of the limitation contained in this section for the purpose of acquiring buildings, the erection of buildings, or additions to buildings without a majority vote of the qualified electors voting in an election called for such purposes.”

As we interpret this section, it prohibits levying taxes to acquire, erect or make additions to buildings without an election. This section directly conflicts with a number of statutes granting such powers to various subdivisions. As such, it attempts to amend existing law without referring to laws amended in the bill. This violates Article III, section 14, of the Constitution of the State of Nebraska.

We have some difficulty with section 2. It provides that political subdivisions may increase their budget in excess of the limitation established by L.B. 5 when they have a population increase greater than five percent. The section does not specify the year the increase is to be measured. It may be the calendar year preceding the adoption of the budget, the calendar year in which the budget is adopted, or some other calendar year. A second problem in this section is the direction to the Department of Revenue to adopt rules and regulations. This bill does not clearly delineate standards with which rules and regulations are to comply. The only standards specified are that the estimates must be made annually, they must be made officially, and they must be estimates related to the political subdivision concerned. While these may be sufficient standards, specification of more definite standards would be desirable.

Section 3 requires a four-fifths vote to suspend by resolution the budget limitations provided in sections 1 and 2 of the act. It is our opinion that such a requirement violates the provisions of Article III, section 13, of the Constitution which provides that "No bill shall be passed by the Legislature unless by the assent of the majority of all the members elected. . . ." An argument might be made that this is not in violation of Article III, section 13, in that it is an action by resolution, but we find no constitutional authority to suspend the operation of a bill by the adoption of a resolution by the Legislature. The authority to adopt a resolution, while contemplated by the Constitution, does not include the authority to adopt a resolution suspending an existing law. Laws in existence may only be amended by adopting a bill specifically setting forth the act to be amended and the amendments to be made. Furthermore, action taken under section 3 may well run afoul of Article III, section 18, which prohibits special or local legislation, particularly where an individual subdivision of government is seeking authority to be exempted from the limit established by the bill.

The final problem that we envision with L.B. 5 is that it would be effective for the fiscal years 1978-1979. In certain cases the 1978-1979 fiscal year of some subdivisions of government will have already started by the effective date of the act. To the extent that the limitation would be applicable to any budget already in effect, there may be a problem with impairment of contracts, as under L.B. 2.

Sincerely yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Patrick T. O'Brien

Assistant Attorney General  
(Signed) Gary B. Schneider  
Assistant Attorney General

PTO:GBS:cjb

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

Opinion No. 261  
June 28, 1978

Dear Senator Warner:

You have requested our opinion as to whether or not L.B. 1 and L.B. 5, Eighty-fifth Legislature, First Special Session 1978, could both be enacted without resulting in conflict. L.B. 1 establishes a seven percent limitation on political subdivisions of the State of Nebraska commencing with the upcoming fiscal year. The limitation applies to the portion of the budget funded by ad valorem taxes. L.B. 5 establishes a limitation of five percent on the total budget of all political subdivisions for the fiscal year 1978-1979.

Each bill authorizes certain exceptions to the budget limitation where increases in population exceed stated percentages. In L.B. 1 the limitations concern those portions of the budget funded by property tax. L.B. 5 controls the entire budget from whatever source derived.

Both bills authorize an election for the purpose of authorizing the political subdivision to exceed the limit imposed by statute.

Each bill could operate independently. L.B. 1 would simply control budget increases in the portion of the budget funded by ad valorem taxes exceeding seven percent. As long as increases did not exceed seven percent of that portion of the budget, or a vote of the people authorized an increase of greater than seven percent, then such budget categories could increase as provided therein. L.B. 5 would however place a total limit of five percent on the increase of all budgets. As such it would include the ad valorem portion of the budget of any particular subdivision. Thus, it would in addition to the limitation expressed in L.B. 1 require that the total budget exceed the previous budget by no more than five percent. It is conceivable that a local subdivision could increase the ad valorem portion of a budget by seven percent yet not increase the total budget by more than five percent.

While the operation of both statutes might well cause substantial difficulties in practical terms, legally the statutes do not conflict with one another. As an example, it might require two votes any time a

local subdivision desires to increase their budget by greater than the stated amounts, one vote to exceed the property tax portion by greater than seven percent and another vote to exceed the total budget limitation by greater than five percent. Such elections could result in the authorization to exceed one limitation but not the other limitation. That would present practical difficulties but we do not conceive of them to be legally so inconsistent as to be unconstitutional. A subdivision might be authorized to exceed its five percent budget limit but be unable to exceed the limit because they had no authority to exceed the seven percent property tax limit. In effect, that might well prohibit exceeding the budget as authorized if they were unable to secure funds from other sources in a greater amount. These problems however are of a practical nature and not of a legal nature.

It is therefore our opinion that both L.B. 1 and L.B. 5 could be enacted and could operate without such inconsistencies between one another as to make them violative of the Constitution of the State of Nebraska.

Sincerely yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Patrick T. O'Brien  
Assistant Attorney General

PTO:saa

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

Mr. Savage asked unanimous consent to be excused. No objections.  
So ordered.

#### MOTION - Return LB 1 to Select File

Mr. D. Dworak moved to return LB 1 to Select File for the following specific amendment:

- 1       1. On page 2, line 15, strike "of" and insert
- 2       "~~of~~ by which"; strike "lost or to be lost" and show as
- 3       stricken; and in line 16 after "sources" insert "are
- 4       reduced from the previous year's level".
- 5       2. On page 5, line 12, after "percentage"
- 6       insert "increase"; in line 13 strike "substituted for"
- 7       and insert "adopted as compared to".

Mr. Koch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The D. Dworak motion prevailed with 31 ayes, 0 nays, 6 present and not voting, and 12 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 1.** The D. Dworak specific amendment found in this day's Journal was adopted with 29 ayes, 0 nays, 8 present and not voting, and 12 excused and not voting.

Advanced to E & R for Re-engrossment.

Mr. Mills asked unanimous consent to be excused. No objections. So ordered.

### MOTION - Suspend Rules

Mrs. Maxey moved to suspend the rules, Rule 4, Sec. 6, to consider LR 22 today.

Mrs. Maxey requested a roll call vote.

Voting in the affirmative, 16:

Emry	Fowler	Lamb	Maxey
Bereuter	Kelly	Luedtke	Moylan
Carsten	Kennedy	Maresh	Reutzel
Cope	Labeledz	Marsh	Rumery

Voting in the negative, 7:

George	Murphy	Schmit	Warner
Kahle	Rasmussen	Stoney	

Present and not voting, 10:

Brennan	DeCamp	D. Dworak	Hefner	Koch
Cullan	E. Dvorak	Hasebroock	Keyes	Kremer

Excused and not voting, 16:



Burrows	Fitzgerald	Marvel	Nichol
Chambers	Goodrich	Merz	Savage
Clark	F. Lewis	Mills	Simon
Duis	R. Lewis	Newell	Venditte

The motion lost with 16 ayes, 7 nays, 10 present and not voting, and 16 excused and not voting.

Mrs. Labeledz asked unanimous consent to be excused. No objections. So ordered.

### EASE

At 2:43 p.m., the Legislature was at ease until 3:00 p.m.

### MOTION - Return LB 2 to Select File

Mr. Warner moved to return LB 2 to Select File for the following specific amendment:

#### AMENDMENTS TO LB 2 FINAL READING COPY (SECOND)

- 1     1. On page 2, line 19 strike "purpose of this
- 2     section" and insert "purposes of this act".
- 3     2. On page 3, strike beginning with "and"
- 4     in line 17 through "budget" in line 18 and insert "state
- 5     the percentage limitation placed on future budgets, and
- 6     specify the first year for which such limitation be-
- 7     comes applicable".
- 8     3. On page 4 strike line 6 and in line 7
- 9     strike "over the current budget" and insert "percentage
- 10    limitation to be placed on future budgets and specify
- 11    the first year for which such limitation becomes appli-
- 12    cable"; and in line 25 strike "exceeding" and insert
- 13    "establishing".
- 14    4. Insert a new section as follows:
- 15    "Sec. 10. Any limitation placed on budgets
- 16    pursuant to this act shall remain in effect until a
- 17    majority of the registered voters authorized to vote
- 18    for the members of the governing(sic) body of such political
- 19    subdivision vote to alter, amend, or revoke such budget
- 20    limitation at a primary or special election. Such elections
- 21    shall be called and conducted in the same manner as
- 22    elections to place a limitation on budgets are called
- 23    and conducted pursuant to this act.".
- 24    5. Renumber original sections 10 and 11 as
- 25    sections 11 and 12.
- 1     1. On page 3 strike beginning with "of" in line 19

- 2 through "budget" in line 20 and insert "and shall affect
- 3 budgets commencing in fiscal years subsequent to such
- 4 election".

The motion prevailed with 27 ayes, 0 nays, 8 present and not voting, and 14 excused and not voting.

### SELECT FILE

**LEGISLATIVE BILL 2.** The Warner specific amendment found in this day's Journal was adopted with 27 ayes, 0 nays, 8 present and not voting, and 14 excused and not voting.

Advanced to E & R for Re-engrossment.

### RESOLUTIONS

#### LEGISLATIVE RESOLUTION 24.

Introduced by Agriculture and Environment Committee; Schmit, 23rd District, Chairman; Lamb, 43rd District; Maresh, 32nd District; Hefner, 19th District; DeCamp, 40th District.

WHEREAS, Nebraska Revised Statutes section 2-963, provides a penalty for anyone who knows of the existence of any noxious weed on land controlled or owned by him; and

WHEREAS, musk thistles are in the classification of noxious weeds as provided in the above sections of the statutes; and

WHEREAS, musk thistles are a problem to both the private and public sectors; and

WHEREAS, only the private person seems to be subject to the penalty provided by the statutes; and

WHEREAS, musk thistles are found on lands owned and controlled by the public; and

WHEREAS, musk thistles have continued to be a problem on public lands; and

WHEREAS, these musk thistles found on public lands create seeds which drift to the lands that are owned by private parties and thus present a problem of eradication to them.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature directs the state agencies, county, city and local government agencies and governing bodies to exert maximum

effort to control musk thistles on lands owned and controlled by them.

Laid over.

### **LEGISLATIVE RESOLUTION 25.**

Introduced by Goodrich, 20th District; Koch, 12th District; Simon, 31st District; E. Dvorak, 8th District; Labedz, 5th District; Stoney, 4th District; Fitzgerald, 14th District; Keyes, 3rd District; Moylan, 6th District; Savage, 10th District; George, 16th District.

WHEREAS, Joanne Betts, age 14 was babysitting her friend and companion Patrice Schmidman, age 9 on June 23, 1978; and

WHEREAS, the girls' summer outing was unexpectedly interrupted by an attack upon Miss Schmidman; and

WHEREAS, Joanne Betts sacrificed her own life in a valiant effort to repel the attack and save her friend and companion; and

WHEREAS, Joanne's meritorious actions represent a stirring example of all that is noble and courageous within those few among us who may truly be called heroic.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the members of the Legislature respectfully recognize the unselfish and courageous nature of Joanne Betts' actions.
2. That a copy of this resolution be presented to the family of Joanne Betts as an expression of sorrow for her untimely passing.

Laid over.

### **UNANIMOUS CONSENT - Print in Journal**

Mrs. Maxey asked unanimous consent to print the following announcement in the Journal. No objections. So ordered.

### **ANNOUNCEMENT: MOBILE HOME HEARINGS**

There will be three hearings held during the interim session regarding Mobile Home Taxation. The three locations for these hearings have been tentatively set as Lincoln, Kearney and Scottsbluff. These hearings will take place during the week of September 25, 1978, with the places and times decided upon at a later date. If you are interested in attending one of these hearings or if you want a hearing held in your district, please contact either Senator Maxey, Kahle or Marvel.

(Signed) Senator Jo Ann Maxey, Chairperson

**MOTION - Return LB 5 to Select File**

Mr. Warner moved to return LB 5 to Select File for the following specific amendment:

- 1       1. On page 2, line 3 after "year" insert ", if
- 2       such fiscal year has not commenced prior to the effective
- 3       date of this act,".
- 4       2. On page 3, line 12 after the period insert
- 5       "The procedures shall utilize current information available
- 6       from federal and state sources and may include a special
- 7       census of the political subdivision.".
- 8       3. Insert the following new section:
- 9       "Sec. 8. This act shall be construed as an
- 10      independent act, complete in itself, and in the event
- 11      of conflict between any provisions of this act and any
- 12      other statutes, the provisions of this act shall control.".
- 13      4. Renumber original section 8 as section 9.

The motion prevailed with 26 ayes, 0 nays, 9 present and not voting, and 14 excused and not voting.

Mr. E. Dvorak asked unanimous consent to be excused. No objections. So ordered.

**SELECT FILE**

**LEGISLATIVE BILL 5.** The Warner specific amendment found in this day's Journal was adopted with 26 ayes, 2 nays, 6 present and not voting, and 15 excused and not voting.

Mr. Simon requested a machine vote to advance LB 5.

Mr. Warner moved for a Call of the House. The motion prevailed with 14 ayes, 4 nays, and 31 not voting.

Mr. Warner requested a roll call vote to advance LB 5.

Voting in the affirmative, 23:

Bereuter	Goodrich	Koch	Marvel	Schmit
Carsten	Hasebroock	Kremer	Moylan	Stoney
Cope	Hefner	Luedtke	Rasmussen	Warner
DeCamp	Kelly	Maresh	Reutzel	
George	Keyes	Marsh	Rumery	

Voting in the negative, 8:

Emry	D. Dworak	Kennedy	Murphy
Cullan	Kahle	Lamb	Simon

Present and not voting, 3:

Brennan	Fowler	Maxey
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Excused and not voting, 15:

Burrows	Duis	Labedz	Merz	Nichol
Chambers	E. Dvorak	F. Lewis	Mills	Savage
Clark	Fitzgerald	R. Lewis	Newell	Venditte

Failed to advance to E & R for Re-engrossment with 23 ayes, 8 nays, 3 present and not voting, and 15 excused and not voting.

### MESSAGE FROM THE GOVERNOR

June 28, 1978

Mr. Pat O'Donnell  
Clerk of the Legislature  
State Capitol Building  
Lincoln, Nebraska

Dear Mr. O'Donnell:

We have received Legislative Bill No. 12.

This bill was signed by me on June 28, 1978 and delivered to the Secretary of State.

Very truly yours,  
(Signed) J. James Exon  
Governor

JJE:f

Mr. Warner moved the Call be raised. The Chair declare the Call raised.

**RECESS**

At 3:55 p.m., on a motion by Speaker Luedtke, the Legislature recessed until 4:30 p.m.

**AFTER RECESS**

The Legislature reconvened at 4:30 p.m., President Whelan presiding.

**ROLL CALL**

The roll was called and all members were present except Mesdames Labedz and Marsh, and Messrs. Burrows, Carsten, Chambers, Clark, Cullan, Duis, E. Dvorak, Fitzgerald, George, Goodrich, F. Lewis, R. Lewis, Maresh, Merz, Mills, Newell, Nichol, Savage, Schmit and Venditte who were excused.

**SELECT COMMITTEE REPORTS****Enrollment and Review****Correctly Re-Engrossed**

The following bills were correctly re-engrossed: 1 and 2.

(Signed) Samuel K. Cullan, Chairman

**ANNOUNCEMENT**

Mr. Marvel announced an Executive Board meeting on Thursday, June 29, 1978 in room 2102 upon adjournment.

**ADJOURNMENT**

At 4:34 p.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m., Thursday, June 29, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature

**EIGHTH DAY - JUNE 29, 1978****LEGISLATIVE JOURNAL****EIGHTY-FIFTH LEGISLATURE  
FIRST SPECIAL SESSION****EIGHTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Thursday, June 29, 1978

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

**PRAYER**

The prayer was offered by the Chaplain.

Almighty God, this special session has been described in a wide variety of ways - from a charade to a circus - and we're sorry for any reasons initiated within this chamber that could have given rise to such descriptions. Help us never to make a mountain out of a mole hill, or exaggerate the unimportant, or lessen the important. Help us by our decisions and discussions and debates this day to do our very best, knowing then that that will be the best for all the people. Make us more willing to let You show us what a difference You can make in our work as well. Give us the faith to believe that if we give you a hearing, You will give us the answers that we cannot adequately find by ourselves. Amen.

**ROLL CALL**

The roll was called and all members were present except Messrs. R. Lewis and Moylan who were excused; Mesdames Labedz, Marsh, Messrs. Chambers, Fowler, Goodrich, Koch, F. Lewis, Merz, Newell, and Nichol.

**CORRECTIONS FOR THE JOURNAL**

Page 141, line 13, strike "attach" and insert "attack".

Page 142, line 7, strike "commended" and insert "commenced".

The Journal for the Seventh Day was approved as corrected.

### RESOLUTIONS

**LEGISLATIVE RESOLUTION 22.** Read. Considered.

LR 22 failed with 13 ayes, 11 nays, and 25 not voting.

**LEGISLATIVE RESOLUTION 23.** Laid over.

**LEGISLATIVE RESOLUTION 24.** Read. Considered.

LR 24 was adopted with 28 ayes, 0 nays, and 21 not voting.

**LEGISLATIVE RESOLUTION 25.** Read. Considered.

Mrs. Maxey asked unanimous consent to add all names to LR 25. No objections. So ordered.

LR 25 was adopted with 33 ayes, 0 nays, and 16 not voting.

**LEGISLATIVE RESOLUTION 23.** Read. Considered.

Mr. Bereuter requested a record vote on the adoption of LR 23.

Voting in the affirmative, 35:

Emry	DeCamp	Hefner	Lamb	Rasmussen
Bereuter	Duis	Kahle	Luedtke	Reutzel
Burrows	E. Dvorak	Kelly	Maresh	Rumery
Carsten	D. Dworak	Kennedy	Marvel	Schmit
Clark	Fitzgerald	Keyes	Maxey	Simon
Cope	George	Kremer	Mills	Stoney
Cullan	Hasebroock	Labeledz	Murphy	Venditte

Voting in the negative, 0.

Present and not voting, 4:

Brennan	Fowler	Savage	Warner
---------	--------	--------	--------

Excused and not voting, 10:

Chambers	Koch	R. Lewis	Merz	Newell
Goodrich	F. Lewis	Marsh	Moylan	Nichol



LR 23 was adopted with 35 ayes, 0 nays, 4 present and not voting, and 10 excused and not voting.

### MOTION - Return LB 1 to Select File

Mr. Warner moved to return LB 1 to Select File for the following specific amendment.

#### AMENDMENTS TO LB 1 FINAL READING (SECOND)

1. On page 2, line 6 strike "upcoming" and insert "upcoming 1978-79"; in line 7 strike "the" and show as stricken; in line 8 strike "current" and insert "its 1977-78 fiscal"; and in line 10 after "greater" insert "; and, for each fiscal year after the 1978-79 fiscal year, its budget shall not exceed the previous fiscal year's budget by more than seven per cent".

Mr. Maresh moved the previous question. The question is, "Shall the debate now close?" The motion lost with 14 ayes, 18 nays, and 17 not voting.

Mr. Mills moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 9 nays, and 15 not voting.

Mr. Warner withdrew his motion.

Mr. Rasmussen asked unanimous consent to be excused. No objections. So ordered.

### MOTION - Return LB 1 to Select File

Mr. F. Lewis moved to return LB 1 to Select File for the following specific amendment:

New section and renumber. The provision of this act shall be in full force, notwithstanding any contractual arrangement of the subdivision covered within this act.

Mr. Maresh moved the previous question. The question is, "Shall the debate now close?" The motion lost with 13 ayes, 12 nays, and 24 not voting.

The F. Lewis motion lost with 4 ayes, 20 nays, 17 present and not voting, and 8 excused and not voting.

**ADJOURNMENT**

At 11:03 a.m., on a motion by Speaker Luedtke, the Legislature adjourned until 9:00 a.m., Friday, June 30, 1978.

Patrick J. O'Donnell  
Clerk of the Legislature

**NINTH DAY - JUNE 30, 1978**

**LEGISLATIVE JOURNAL**

**EIGHTY-FIFTH LEGISLATURE  
FIRST SPECIAL SESSION**

**NINTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Friday, June 30, 1978

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Whelan presiding.

**PRAYER**

The prayer was offered by the Chaplain.

Dear God and Father of us all, in these moments of quiet before the activities of this day, give each one of us a quiet center from which to make our decisions, that we may make the most of our time here. Put our restless minds in contact with You, the author of our being and the source of all truth. You have given us a key to understanding life, but we have merely tried to break down the walls. Without Your truth our words are empty, and without Your goals our travels are often aimless, and without your values our days are often misspent. Openly our words and deeds are empty without your direction. So in this moment give to each one of us what each one needs, that from our best thinking there may come a kind of behavior today which will bless our people and ourselves and which You yourself can bless. Amen.

**ROLL CALL**

The roll was called and all members were present except Messrs. Moylan and R. Lewis who were excused; Mr. Savage who was excused until he arrives.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the Eighth Day was approved.

## ATTORNEY GENERAL'S OPINIONS

Opinion No. 262  
June 29, 1978

Dear Senator Warner:

You have asked us certain questions relating to constitutional problems under the state and federal constitution relating to unreasonable classifications. In your first request for an opinion, you refer to L.B. 1 and L.B. 5. You express concern that both bills might be based on unreasonable classifications. You refer to our Opinion No. 19, February 14, 1977, to Senator DeCamp concerning L.B. 131. In your second question you refer to L.R. 9 and L.B. 16 each of which propose a constitutional amendment relating to tax limitation. You have cited several cases and the enabling act authorizing the creation of the State of Nebraska and have asked a series of questions based on them. We will attempt to answer each of your questions as they relate to the classification problem in this opinion.

As an initial matter, there is no classification question raised by the federal constitution where the classification relates to geographic areas and not to people. In Salsburg v. Maryland, 346 U.S. 545, 98 L.Ed. 281, 74 S.Ct. 280 (1953), the United States Supreme Court had before it a case considering a criminal statute which prohibited introduction in evidence in criminal trials certain types of evidence procured by search and seizure for most counties in Maryland while authorizing its introduction in one county in Maryland. The Supreme Court, in part, in that case stated:

“... The Equal Protection Clause relates to equality between persons as such rather than between areas. . . .”

In a subsequent case, McGowan v. Maryland, 366 U.S. 420, 6 L.Ed.2d 393, 81 S.Ct. 1101 (1961), the court considered Sunday closing laws that discriminated as between various counties in Maryland. The court, in part, there held:

“Secondly, appellants contend that the statutory arrangement which permits only certain Anne Arundel County retailers to sell merchandise essential to, or customarily sold at, or incidental to, the operation of bathing beaches, amusement parks et cetera is contrary to the ‘Equal Protection’ Clause because it discriminates unreasonably against retailers in other Maryland counties. But we have held that the Equal Protection Clause relates to equality between persons as such, rather than between areas and that territorial uniformity is not a constitutional prerequisite. . . .”

It seems clear under these cases that legislation may be enacted which effects areas differently but does not discriminate with respect to individuals within the area. Thus, there are no equal protection claims which arise by virtue of the proposed bills or resolution which you have referred to us.

With respect to the due process question that you have raised, the Nebraska Supreme Court in Rein v. Johnson, 149 Neb. 67, 30 N.W.2d 548 (1947), cited 16 C.J.S., Constitutional Law, section 570, and stated:

“Further, the general rule is that the power of the state to control its own governmental agencies in their governmental capacities, is not ordinarily restrained by the requirement of due process. . . .”

The Legislature has the power to control taxation by governmental entities. We do not believe that the Legislature would be faced with either an equal protection or a due process claim, either under the federal constitution or under the state constitution.

The only remaining question raised by your request for our opinion is whether or not the classifications are improper under the Nebraska Constitution under Article III, section 18. Article III, section 18, provides in essence that the Legislature shall make no special or local law where a law of general application might be utilized. L.B. 1 and L.B. 5 might be attacked as an improper classification in that governmental subdivisions of nearly identical character might be authorized to raise significantly different amounts of taxation under the limits imposed. In our Opinion No. 19, February 14, 1977, to Senator DeCamp, we expressed our view that L.B. 131 may have created an improper classification by virtue of the fact that closed classes were created under L.B. 131. Opinion No. 19 was written while L.B. 131 was in the initial debating stages of legislative action. At that time, section 2 provided that taxing districts would impose levies based upon the valuation of property for the year 1975. The basis of our opinion with respect to the improper classification in L.B. 131 was the limitation to the year 1975 while no deviation from the limit was allowed. In other words, subdivisions were permanently limited according to the amount of their 1975 budget, with absolutely no opportunity to increase beyond the limitation even in the most dire circumstances. In the form finally passed, L.B. 131 provided some relief from that classification scheme in that it allowed a deviation after complying with a prescribed procedure. L.B. 1 and L.B. 5 restrict subdivision tax increases on a percentage limitation basis. However, each bill also provides that the percentage limitation may be

altered by a vote of the people. Thus, while similar political subdivisions might be treated differently as to the level of funding they may raise because of different base year amounts, that base amount will not necessarily have any continuing effect, since it may be changed by a vote of the people. It may well be that this feature would remove these proposals from the evil prohibited by Article III, section 18, of the Constitution.

In Midwest Popcorn Co. v. Johnson, 152 Neb. 867, 43 N.W.2d 174, the court held that a statute is not an improper classification where it fails to provide for entry of later subdivision into the class.

Generally cases holding invalid a classification because of a closed class have involved the impossibility of expanding the members of the class. Generally, those cases upholding classification statutes have held that where subdivisions may enter the class when they attain the standards set for the class, there is no improper classification. While that analysis is not directly related to the present problem, it does seem clear that since any subdivision wishing to increase its budget beyond limitations provided may do so when authorized by a vote of the people a closed class is not created. To that extent, the situation presented under the present proposals in the Legislature differs significantly from the proposal contained in L.B. 131 at the time of our prior opinion. While we adhere to the substance of our prior opinion, that a closed class is unconstitutional under Article III, section 18, it is our view that the proposals presently being considered probably do not constitute closed classes and, for that reason do not violate Article III, section 18, of the Constitution.

For the reasons set forth above, it is our opinion that L.B. 1, L.B. 5, L.B. 16, and L.R. 9 do not offend the equal protection clause of the federal constitution, the due process clause of the federal constitution, nor do L.B. 1 and L.B. 5 offend Article III, section 18, of the Nebraska Constitution.

Very truly yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Patrick T. O'Brien  
Assistant Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

PTO:GBS:cjb

cc: Patrick O'Donnell

Acting Clerk of the Legislature

Opinion No. 263  
June 29, 1978

Dear Senator DeCamp:

You refer to our opinions to Senator Warner concerning L.B. 1 and L.B. 5. You point out that we indicate L.B. 5, since it will be effective for the fiscal 1978-79 year, might impair contracts and to that extent be ineffective. You ask whether or not L.B. 1 would also have the same difficulties. You further state that it is your understanding that statutes which impair contracts are unconstitutional. You ask then whether L.B. 1 has the same problem that exists with respect to L.B. 5 in impairing contracts.

L.B. 1, section 1, in part, provides:

“Every political subdivision . . . may adjust . . . its budget . . . for the upcoming fiscal year.” (Emphasis added).

By virtue of the terms used in section 1, L.B. 1 will be effective prospectively only. L.B. 5 by its terms will apply to all fiscal years commencing in 1978-79, whether they commence prior to or after the effective date of L.B. 5.

While L.B. 1 may effect fiscal years commencing in 1978, its effect will be on years commencing subsequent to its operative date. Certain contracts may have been entered into prior to the commencement of the fiscal year by subdivisions of government. If such contracts have been entered into to be executed during the fiscal year that contract by itself would have to require an expenditure of money which would itself constitute an amount above the limitation expressed in the statutes. The fact that contracts have been entered into which require an expenditure of money, will not result in an impairment by any lid bill where the contract itself does not require the subdivision to expend an amount greater than the authorized limit under the lid bill. For example, a contract might provide for an increase in salaries for more than seven percent, yet the subdivision might be able to pay such seven percent increase by not increasing its budget in excess of the limits authorized by the statute. While this may require that the subdivision lower expenses in other areas, it would not effect the particular contract under consideration.

A statute that impairs a contract may be unconstitutional with respect to that contract. The statute however, merely because it might impair a contract, is not unconstitutional on its face. It would only be unconstitutional as applied. Thus, a statute can be constitutionally adopted and can be effective with respect to most contracts and most

relationships even though the possibility that it may impair a contract at some time exists. Should the impairment occur under the constitutional clauses of the United States and Nebraska, the contract itself would take precedence and the statute would be ineffective with respect to that particular contract, but not ineffective or unconstitutional simply because it impairs the contract.

In summation then, it is our opinion that L.B. 1 conceivably could have the same problem in impairing contracts that exist with L.B. 5. However that difficulty is not sufficient for us to conclude that the statute is or might be unconstitutional. We simply point out that where a valid contract has been entered into and the statute operates to foreclose the execution of that contract it would be ineffective as to that particular situation. Secondly, L.B. 1 will effect fiscal years commencing after its operative date. We believe this letter should clear up those questions you raised regarding our previous opinions.

Sincerely yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Patrick T. O'Brien  
Assistant Attorney General

PTO:saa

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

Opinion No. 264  
June 29, 1978

Dear Senator DeCamp:

You have asked us to consider two questions relating to L.B. 1. In your first question you ask whether L.B. 1 creates an improper classification. In your second question you also raise a classification question. You ask whether L.B. 1 is improper because different types of subdivisions, such as school districts and counties, have different fiscal years so that the bill will affect one type as soon as passed and others later. You ask whether this results in an improper classification. We will answer your questions in the order asked.

Article III, section 18, provides in essence that the Legislature shall make no special or local law where a law of general application might be utilized. L.B. 1 might be attacked as an improper classification in that governmental subdivisions of nearly identical character might be authorized to raise significantly different amounts of taxes under the



limits imposed. In our Opinion No. 19, February 14, 1977, to you, we expressed our view that L.B. 131 may have created an improper classification by virtue of the fact that closed classes were created under L.B. 131. Opinion No. 19 was written while L.B. 131 was in the initial debating stages of legislative action. At that time, section 2 provided that taxing districts would impose levies based upon the valuation of property for the year 1975. The basis of our opinion with respect to the improper classification in L.B. 131 was the absolute limitation connected to the budget for the year 1975 which allowed for no deviation from that limit. In other words, subdivisions were permanently limited according to the amount of their 1975 budget, with absolutely no opportunity to increase beyond the limitation even in the most dire circumstances. In the form finally passed, L.B. 131 provided some relief from that classification scheme in that it allowed a deviation after compliance with a prescribed procedure. L.B. 1 restricts subdivision budget increases on a percentage limitation basis. However, the bill also provides that the percentage limitation may be altered by a vote of the people. Thus, while similar political subdivisions might be treated differently as to the level of funding they may raise because of different base year amounts, that base amount will not necessarily have any continuing effect since it may be changed by a vote of the people. It may well be that this feature would remove these proposals from the evil prohibited by Article III, section 18, of the Constitution.

Generally, cases holding invalid a classification because of a closed class have involved the impossibility of expanding the members of the class. Generally, those cases upholding classification statutes have held that where subdivisions may enter the class when they attain the standards set for the class, there is no improper classification. While that analysis is not directly related to the present problem, it does seem clear that since any subdivision may increase its budget beyond the limitations provided when authorized by a vote of the people, a closed class is not created. To that extent, the situation presented under the present proposals in the Legislature differs significantly from the proposal contained in L.B. 131 at the time of our prior opinion. While we adhere to the substance of our prior opinion, that a closed class is unconstitutional under Article III, section 18, it is our view that the proposal presently being considered probably does not constitute a closed class and, for that reason, does not violate Article III, section 18, of the Constitution.

On your second question, you point out that different types of governmental subdivisions have different fiscal years. This will result

in some units being under the limit in their fiscal year 1978-79 and others not until their fiscal year 1979-80. You ask whether this is an improper classification.

In our opinion only one class has been created, and the law applied equally to all members of that class. Any time the Legislature adopts an act prohibiting or authorizing some activity, the same result will occur. As an example, a law creating a new crime will result in some people being treated differently. One person may do the act the day before the effective date of the law, while another may do the act the day the act is effective. The first person will be guilty of no crime while the second is guilty and is subject to the penalty provided.

L.B. 1 will be applied to the budgets of all subdivisions for budget years commencing subsequent to its effective date. The fact that different types of subdivisions have different fiscal years, and thus will be affected on different dates does not create different classes. We do not see how the Legislature could draft language that would affect all subdivisions on the same date since they have different fiscal years.

For the reasons set forth above, it is our opinion that L.B. 1 does not offend Article III, section 18 of the Nebraska Constitution.

Very truly yours,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Paul E. Hofmeister  
Assistant Attorney General

PEH:cjb

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

#### REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of June 30, 1978. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick O'Donnell  
Clerk of the Legislature

Baburek, Robert B. - Omaha (withdrawn 6/20), Fleet Reserve  
Association Omaha Branch 276

Hardy, George A. - Wisconsin (withdrawn 6/21), The Northwestern Mutual Life Insurance Company  
Jensen, Soren S. - Omaha (withdrawn 6/20), Nebraskans for Fairness in Product Liability Protection

### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR23, LR24, and LR25.

### UNANIMOUS CONSENT - Print in Journal

Mr. Rumery asked unanimous consent to print the following memorandum in the Journal. No objections. So ordered.

June 29, 1978

#### MEMORANDUM

TO: President Gerald Whelan  
Speaker Roland Luedtke  
All members of the Nebraska Legislature

FROM: Senator Myron Rumery

RE: Major General Butler B. Miltonberger Armory

The Eighty-Fifth Legislature, Second Session, passed a Resolution on April 19, 1978, to name the National Guard Armory at North Platte, Nebraska, the Major General Butler B. Miltonberger Armory.

The war-time campaigns of the U.S. Army's 35th Infantry Division, commanded by Major General Butler B. Miltonberger of North Platte during World War II, will be relived in a 16-minute film, "The Big Wheel," airing Saturday, July 15, at 6:30 P.M. on the Nebraska Educational Television Network.

The film follows the exploits of the 35th Infantry Division from 1846 through World War I, as well as fighting activities in Europe during World War II.

He also was a Commander of the Nebraska National Guard, Company D, 134th Infantry, and after World War II, Miltonberger was appointed Chief of the National Guard Bureau.

**BILLS ON FINAL READING**

The following bills were read and put upon final passage:

**LEGISLATIVE BILL 4.** Mr. Mills moved to return LB 4 to Select File for the following specific amendment:

Strike the enacting clause.

Mr. Luedtke moved the previous question. The question is, "Shall the debate now close?" The motion lost with 13 ayes, 26 nays, and 10 not voting.

Mr. Venditte moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 12 nays, and 12 not voting.

The Mills motion lost with 20 ayes, 22 nays, 4 present and not voting, and 3 excused and not voting.

**LEGISLATIVE BILL 4.** With Emergency.

A BILL FOR AN ACT relating to the state budget; to place a limit on future budget increases; to define a term; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 22:

Bereuter	George	Koch	Marvel	Stoney
Carsten	Goodrich	Kremer	Merz	Warner
Clark	Hasebroock	Lamb	Newell	
Cope	Hefner	F. Lewis	Rumery	
Duis	Kahle	Maresh	Simon	

Voting in the negative, 23:

Emry	E. Dvorak	Kennedy	Maxey	Reutzel
Brennan	D. Dworak	Keyes	Mills	Schmit
Burrows	Fitzgerald	Labeledz	Murphy	Venditte
Chambers	Fowler	Luedtke	Nichol	
Cullan	Kelly	Marsh	Rasmussen	

Present and not voting, 1:

DeCamp

Excused and not voting, 3:

R. Lewis      Moylan      Savage

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 21:

Bereuter	Duis	Kahle	Maresh	Warner
Carsten	George	Koch	Marvel	
Clark	Goodrich	Kremer	Rumery	
Cope	Hasebroock	Lamb	Simon	
DeCamp	Hefner	F. Lewis	Stoney	

Voting in the negative, 23:

Emry	D. Dworak	Keyes	Mills	Reutzel
Burrows	Fitzgerald	Labeledz	Murphy	Schmit
Chambers	Fowler	Luedtke	Newell	Venditte
Cullan	Kelly	Marsh	Nichol	
E. Dvorak	Kennedy	Maxey	Rasmussen	

Present and not voting, 2:

Brennan      Merz

Excused and not voting, 3:

R. Lewis      Moylan      Savage

Having failed to receive a constitutional majority voting in the affirmative, the bill failed to pass.

## ATTORNEY GENERAL'S OPINION

Opinion No. 265June 30, 1978

Dear Senator Mills:

You have requested the opinion of this office concerning the germaneness of L.R. 1 in this special session of the Legislature. L.R. 1 proposes an amendment to Article VIII, section 1, of the Constitution of Nebraska and provides that the same would be placed upon the ballot of the general election in November of 1978. The amendment essentially provides a procedure to be used to equalize assessments among taxpayers in the various counties in the case of political subdivisions which have multicounty assessments wherein one or more of such counties have not completed a general reappraisal of property.

Article IV, section 8, of the Nebraska Constitution provides as follows:

“The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.”

As is clearly stated by the above constitutional provisions the Legislature may only do such business as is within the purpose stated in the Governor's proclamation to convene the Legislature in special session. Any action taken which is not within this purpose is to no effect. See Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964). In that case the Nebraska Supreme Court announced the standard required by the Constitution to be as follows on page 689.

“It is well established that the Legislature while in special session can transact no business except that for which it was called together. . . . The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matter submitted to it by the proclamation.”

The Governor's proclamation of June 5, 1978, convenes the Legislature for the following purpose, in pertinent part:

“ . . . For the purpose of considering and, if deeming it advisable, enacting legislation relating to the following subjects: . . . 2. To enact spending limitations on government budgets.”

It is questionable whether the subject matter of L.R. 1 falls within the subject matter described in the Governor's call. The Nebraska Supreme Court has stated the test to be applied in determining whether legislation enacted is within the scope of the call in *Arrow Club, Inc. v. Nebraska Liquor Commission*, supra, the court therein stated on page 690:

"The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The purpose or subject as stated in the proclamation is to be determined by an analysis and construction of the proclamation as in the case of any written instrument. . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction."

It is difficult to see that L.R. 1 has any relation to or natural connection with the purpose of limiting government spending. The essential purpose of L.R. 1 appears to be rather to equalize tax burdens among tax payers in a political subdivision which overlaps county lines. Any effect that this has upon the limitation of government spending would appear to be only very indirect. Therefore, even giving effect to the presumption in favor of constitutionality, a very serious question exists as to whether the subject matter of this resolution is within the scope of the Governor's call into special session.

In addition, we also refer you to our earlier issued opinion written to Governor Exon. As was concluded therein a question exists whether it is proper, under the purpose expressed in the Governor's proclamation calling the Legislature into special session, for the Legislature to propose a constitutional amendment. This is true whether done by bill or resolution.

For the reasons expressed herein, it is our opinion that a serious constitutional question is presented as to whether any action by the Legislature on L.R. 1 is proper at this special session since a very strong argument could be mounted that L.R. 1 is business outside of that for which the Legislature was called into session under Article IV, section 8, of the Nebraska Constitution.

Yours very truly,  
PAUL L. DOUGLAS  
Attorney General

(Signed) Gary B. Schneider  
Assistant Attorney General

GBS:saa

cc: Patrick O'Donnell  
Acting Clerk of the Legislature

**MOTION - Return LR 1 to Select File**

Mr. Mills moved to return LR 1 to Select File for the following specific amendment:

Strike the enacting clause.

Mr. F. Lewis moved the previous question. The question is, "Shall the debate now close?" The motion lost with 16 ayes, 24 nays, and 9 not voting.

Mr. Warner raised a point of order on the Mills motion.

The Chair sustained the point of order.

Mr. Mills moved to return LR 1 to Select File for the following specific amendment:

Strike Sections 1 and 2.

Mr. Simon moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 15 nays, and 9 not voting.

The Mills motion lost with 13 ayes, 26 nays, 7 present and not voting, and 3 excused and not voting.

**RESOLUTION ON FINAL READING**

**LEGISLATIVE RESOLUTION 1.**

A Resolution to propose an amendment to Article VIII, section 1 of the Constitution of Nebraska.

WHEREAS, ad valorem taxes are important to the effectiveness of all levels of local government and there are many and varied political subdivisions levying ad valorem taxes which overlap county lines; and

WHEREAS, recently reappraised property may bear a larger financial burden in a political subdivision which overlaps county lines than other comparable property and provide additional revenue to such political subdivisions; and

WHEREAS, to insure that the budget of any political subdivision which has multicounty assessments is not excessive and does not provide undue fluctuation.



NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

Section 1. That at the general election in November, 1978, there shall be submitted to the electors of the State of Nebraska for approval the following amendment to Article VIII, section 1, of the Constitution of Nebraska, which is hereby proposed by the Legislature:

“Sec. 1. The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, except that (1) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent as provided by the Legislature and may also establish a separate class for trucks, trailers, semi-trailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles; Provided, that such tax proceeds from motor vehicles taxed in each county shall be allocated to the state, counties, townships, cities, villages, and school districts of such county in the same proportion that the levy of each bears to the total levy of said county on real property and (2) when a political subdivision authorized to levy a tax or cause a tax to be levied lies in two or more counties, and one or more of such counties have not completed a general reappraisal of all land and improvements within two years of one another, the State Board of Equalization and Assessment shall fix separate and distinct tax levies so that the county which has most recently completed a general reappraisal of all lands and improvements shall provide the same percentage of the political subdivision's budget as it provided prior to such reappraisal. For all tax years commencing on or after January 1, 1981, the State Board of Equalization and Assessment shall not be empowered to fix separate and distinct levies but shall annually review and equalize assessments of property among counties. The Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall, for property tax purposes, be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses, and prescribe standards and methods for the determination of the value of real or other tangible property at uniform and proportionate values.

Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared to be exempt from taxation. Taxes, other than property taxes, may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature. The Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year."

Sec. 2. The proposed amendment shall be submitted to the electors in the manner prescribed by Article XVI, section 1, of the Constitution of Nebraska. The proposition for the submission of the proposed amendment shall be placed upon the ballot in the following form:

"Constitutional amendment to provide that the State Board of Equalization and Assessment fix separate and distinct tax levies and equalize assessments of property among counties as prescribed.

For

Against"

Sec. 3. That the proposed amendment, if adopted, shall be in force and take effect immediately upon the completion of the canvass of the votes, at which time it shall be the duty of the Governor to proclaim it as a part of the Constitution of Nebraska.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the resolution pass?' "

Voting in the affirmative, 31:

Bereuter	Fowler	Kremer	Merz	Simon
Burrows	George	F. Lewis	Newell	Stoney
Carsten	Hasebroock	Luedtke	Nichol	Warner
Clark	Hefner	Maresh	Rasmussen	
Cope	Kahle	Marsh	Reutzel	
DeCamp	Kelly	Marvel	Rumery	
Duis	Koch	Maxey	Schmit	

Voting in the negative, 14:

Emry	Cullan	Fitzgerald	Labeledz	Murphy
Brennan	E. Dvorak	Kennedy	Lamb	Venditte
Chambers	D. Dworak	Keyes	Mills	

Present and not voting, 1:

Goodrich

Excused and not voting, 3:

R. Lewis      Moylan      Savage

A constitutional three-fifths majority having voted in the affirmative, the resolution was declared passed and the title agreed to.

### **MOTION - Suspend Rules**

Mr. Nichol moved to suspend the rules, Rule 6, Sec. 6b, to read LB 1 and LB 2 on Final Reading today.

The motion prevailed with 43 ayes, 0 nays, and 6 not voting.

### **MOTION - Overrule Speaker's Order**

Mr. Nichol moved to overrule the Speaker's order to read LB 2 before LB 1.

The motion lost with 15 ayes, 18 nays, and 16 not voting.

### **MOTION - Return LB 1 to Select File**

Mr. Kahle moved to return LB 1 to Select File for the following specific amendment:

Strike the emergency clause.

Mr. Venditte moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 11 nays, and 11 not voting.

Mr. Kahle requested a record vote on his motion.

Voting in the affirmative, 5:

Cullan      Fowler      Hefner      Murphy      Newell

Voting in the negative, 35:

Emry	DeCamp	Kahle	Lamb	Rasmussen
Bereuter	Duis	Kelly	Luedtke	Rumery
Brennan	D. Dworak	Kennedy	Maresh	Schmit
Burrows	Fitzgerald	Keyes	Marsh	Simon
Carsten	George	Koch	Marvel	Stoney
Clark	Goodrich	Kremer	Mills	Venditte
Cope	Hasebroock	Labeledz	Nichol	Warner

Present and not voting, 6:

Chambers	F. Lewis	Merz
E. Dworak	Maxey	Reutzel

Excused and not voting, 3:

R. Lewis	Moylan	Savage
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The motion lost with 5 ayes, 35 nays, 6 present and not voting, and 3 excused and not voting.

#### **MOTION - Return LB 1 to Select File**

Mr. Schmit moved to return LB 1 to Select File for the following specific amendment:

Strike the enacting clause.

Mr. Maresh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 12 nays, and 8 not voting.

The Schmit motion lost with 8 ayes, 30 nays, 8 present and not voting, and 3 excused and not voting.

#### **MOTION - Reconsider Action**

Mr. Warner moved to reconsider action on the Schmit motion to return LB 1 to Select File to strike the enacting clause.

Mr. Maresh moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 10 nays, and 12 not voting.

The Warner motion to reconsider action lost with 8 ayes, 28 nays, 10 present and not voting, and 3 excused and not voting.

### BILLS ON FINAL READING

The following bills were read and put upon final passage:

#### LEGISLATIVE BILL 1. With Emergency.

A BILL FOR AN ACT to amend sections 77-1355 and 77-1356, Revised Statutes Supplement, 1977, relating to revenue and taxation; to change provisions relating to political subdivision budget adjustments as prescribed; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Mr. D. Dworak requested a roll call vote.

Voting in the affirmative, 29:

Emry	E. Dworak	Hefner	Luedtke	Newell
Bereuter	D. Dworak	Kennedy	Maresh	Rumery
Burrows	Fitzgerald	Keyes	Marsh	Stoney
Carsten	George	Koch	Marvel	Venditte
Clark	Goodrich	Labeledz	Merz	Warner
Duis	Hasebroock	Lamb	Mills	

Voting in the negative, 16:

Brennan	Fowler	F. Lewis	Rasmussen
Chambers	Kahle	Maxey	Reutzel
Cope	Kelly	Murphy	Schmit
Cullan	Kremer	Nichol	Simon

Present and not voting, 1:

DeCamp

Excused and not voting, 3:

R. Lewis	Moylan	Savage
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Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 35:

Emry	E. Dvorak	Kelly	Luedtke	Nichol
Bereuter	D. Dworak	Kennedy	Maresh	Rasmussen
Brennan	Fitzgerald	Keyes	Marsh	Reutzel
Burrows	George	Koch	Marvel	Rumery
Carsten	Goodrich	Kremer	Merz	Stoney
Clark	Hasebroock	Labeledz	Mills	Venditte
Duis	Hefner	Lamb	Newell	Warner

Voting in the negative, 10:

Chambers	Cullan	Kahle	Maxey	Schmit
Cope	Fowler	F. Lewis	Murphy	Simon

Present and not voting, 1:

DeCamp

Excused and not voting, 3:

R. Lewis      Moylan      Savage

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

### **MOTION - Reconsider Action**

Mr. DeCamp moved to reconsider action on passage of LB 1.

Mr. F. Lewis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 12 nays, and 12 not voting.

The DeCamp motion to reconsider lost with 19 ayes, 17 nays, 10 present and not voting, and 3 excused and not voting.

**BILL ON FINAL READING**

The following bill was read and put upon final passage:

**LEGISLATIVE BILL 2. With Emergency.**

A BILL FOR AN ACT to adopt the Local Option Tax Control Act; to provide for elections; to provide a penalty; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 30:

Bereuter	Duis	Koch	Marvel	Reutzel
Burrows	George	Kremer	Maxey	Rumery
Carsten	Hasebroock	Lamb	Merz	Schmit
Clark	Hefner	Luedtke	Murphy	Simon
Cullan	Kahle	Maresh	Nichol	Stoney
DeCamp	Kelly	Marsh	Rasmussen	Warner

Voting in the negative, 15:

Emry	Cope	Fitzgerald	Keyes	Mills
Brennan	E. Dvorak	Fowler	Labeledz	Newell
Chambers	D. Dvorak	Kennedy	F. Lewis	Venditte

Present and not voting, 1:

Goodrich

Excused and not voting, 3:

R. Lewis      Moylan      Savage

Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed with the emergency clause attached. The question is, "Shall the bill pass with the emergency clause stricken?"

Voting in the affirmative, 31:

Bereuter	Duis	Kremer	Merz	Simon
Burrows	George	Lamb	Murphy	Stoney
Carsten	Hasebroock	Luedtke	Nichol	Warner
Clark	Hefner	Maresh	Rasmussen	
Cope	Kahle	Marsh	Reutzel	
Cullan	Kelly	Marvel	Rumery	
DeCamp	Koch	Maxey	Schmit	

Voting in the negative, 15:

Emry	Cope	Fitzgerald	Keyes	Mills
Brennan	E. Dvorak	Fowler	Labadz	Newell
Chambers	D. Dworak	Kennedy	F. Lewis	Venditte

Present and not voting, 1:

Goodrich

Excused and not voting, 3:

R. Lewis      Moylan      Savage

A constitutional majority having voted in the affirmative, the bill was declared passed with the emergency clause stricken.

#### **MOTION - Reconsider Action**

Mr. Schmit moved to reconsider action on the passage of LB 1 with the emergency clause attached.

Mr. Simon moved to adjourn sine die. The motion lost with 7 ayes, 32 nays, and 10 not voting.

Mr. F. Lewis moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 13 nays, and 9 not voting.

The Schmit motion to reconsider action prevailed with 34 ayes, 10 nays, 2 present and not voting, and 3 excused and not voting.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"



Mr. D. Dworak requested a roll call vote.

Voting in the affirmative, 31:

Emry	D. Dworak	Keyes	Marsh	Stoney
Bereuter	Fitzgerald	Koch	Marvel	Venditte
Burrows	George	Kremer	Merz	Warner
Carsten	Goodrich	Labeledz	Mills	
Clark	Hasebroock	Lamb	Newell	
Duis	Hefner	Luedtke	Rasmussen	
E. Dvorak	Kennedy	Maresh	Rumery	

Voting in the negative, 11:

Brennan	Cullan	Kelly	Reutzel
Chambers	Fowler	F. Lewis	Simon
Cope	Kahle	Maxey	

Present and not voting, 4:

DeCamp	Murphy	Nichol	Schmit
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Excused and not voting, 3:

R. Lewis	Moylan	Savage
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Having failed to receive a constitutional two-thirds majority voting in the affirmative, the bill failed to pass with the emergency clause attached.

## SELECT COMMITTEE REPORTS

### Enrollment and Review

#### Correctly Enrolled

The following were correctly enrolled: LR1, LB1, and LB2.

(Signed) Samuel K. Cullan, Chairman

#### PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following: LR1, LB1, and LB2.

**RESOLUTION****LEGISLATIVE RESOLUTION 26.**

Introduced by Newell, 13th District.

WHEREAS, the railroad as a means of services and transportation is important to the citizens of the State of Nebraska; and

WHEREAS, the United States Department of Transportation is considering discontinuing Amtrack services to the State of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-FIFTH LEGISLATURE OF NEBRASKA, FIRST SPECIAL SESSION:

1. That the Legislature go on record as opposing the discontinuation of Amtrack Services to the State of Nebraska.

2. That a copy of this resolution be sent to the President of the United States, Jimmy Carter, Secretary of Transportation Brock Adams, and to the appropriate members of the Congress of the United States.

Mr. Newell moved to suspend the rules, Rule 4, Sec. 6 to consider LR 26 today.

The motion prevailed with 32 ayes, 1 nay, and 16 not voting.

LR 26 was adopted with 28 ayes, 0 nays, and 21 not voting.

**MOTION - Disposition of Bills**

Mr. Schmit moved that all bills not otherwise disposed of, excluding bills on Final Reading and vetoed bills on this date, be indefinitely postponed.

The motion prevailed with 29 ayes, 2 nays, and 18 not voting.

**MOTION - Advise Governor**

Mr. D. Dworak moved that a committee of five be appointed to wait upon the Governor to advise him that the Legislature has completed its work and is ready to adjourn and to ask if he has any further message for the Legislature.

The motion prevailed with 29 ayes, 2 nays, and 18 not voting.

The Chair appointed Messrs. Hefner, Kremer, Hasebroock, DeCamp and Merz to serve on said committee.

### **MOTION - Permanent Journal and Session Laws**

Mr. DeCamp moved that the Clerk of the Legislature be instructed to send to each member of the Legislature, to the Lieutenant Governor, and to each authorized member of the press assigned to the Legislature for the Eighty-Fifth (First Special Session) Session a copy of the Permanent Legislative Journal of said session and a copy of the Session Laws passed thereat.

The motion prevailed with 31 ayes, 0 nays, and 18 not voting.

### **PRESENTED TO THE GOVERNOR**

Presented to the Governor on June 30, 1978, at 11:40 a.m., were the following: LR 1, LB 1, and LB 2.

(Signed) Joni Severson, Enrolling Clerk

### **MOTION - Committee Records**

Mr. F. Lewis moved that the chairman of each standing committee be requested to file with the Clerk of the Legislature any standing committee records, so that a proper record may be made of the final disposition of such bills.

The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

### **ANNOUNCEMENT**

The Committee to advise the Governor returned and announced the Governor had no message for the body.

### **MOTION - Approve Journal**

Mr. Warner moved that the Legislative Journal for the Ninth Day be approved as prepared by the Clerk.

The motion prevailed.

**SELECT COMMITTEE REPORT****Rules**

Mr. President,

The Rules Committee met Tuesday, June 27, 1978 and in lieu of the rule changes submitted by Senator John DeCamp found on page 83 and 84 of the Legislative Journal, First Special Session, the attached were acted favorably on and sent to the floor for consideration.

The Rules Committee also discussed the rule change submitted by Senator Barry Reutzel found on page 111 of the Legislative Journal, First Special Session, but no action was taken.

**Attachments****Proposed Rule Changes**

1. Insert the following new section to Rule 3:

“Sec. 25. The Appropriations Committee of the Legislature shall not introduce or advance any legislation which allows the total appropriations from the General Fund and State Building Fund for the upcoming fiscal year to be more than five per cent in excess of appropriations from the General Fund and State Building Fund for the current fiscal year.”.

1. Insert the following new section to Rule 5:

“Sec. 14. No amendment to an appropriation bill which would increase an appropriation from the General Fund and State Building Fund by five per cent more than the appropriation from the General Fund and State Building Fund for the current fiscal year shall be adopted without a four-fifths vote of the elected members.”.

(Signed) John DeCamp, Chairman

**VISITORS**

The President introduced Senator Fitzgerald's daughter and husband, Gayle and Roger Sturm.

**MOTION - Sine Die**

Speaker Luedtke moved that the Eighty-Fifth Legislature, First Special Session of the Legislature having finished all business before it, now at 11:46 a.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell  
Clerk of the Legislature

RECEIVED AFTER ADJOURNMENT  
MESSAGES FROM SECRETARY OF STATE

July 6, 1978

Clerk of the Legislature  
Eighty-fifth Legislature, First Special Session  
Nebraska Unicameral Legislature  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. Clerk:

Please be advised that Legislative Resolution 1, passed by the Eighty-fifth Legislature, First Special Session was delivered to the office of Secretary of State on July 5, 1978 by the office of the Governor. The Governor did not sign said Legislative Resolution 1, nor was it vetoed. However, under the provisions of law, the Governor need not take any action on a Legislative Resolution with reference to veto or signature and need only deliver it to the Secretary of State.

Please be further advised that the Secretary of State, under the direction set forth in Legislative Resolution 1, will prepare said constitutional amendment for appearance on the November 1978 General Election ballot for a vote of the people.

Respectfully submitted,  
(Signed) ALLEN J. BEERMANN  
Secretary of State

Enclosure: Copy of letter dated July 5  
from the Governor to the  
Secretary of State.

July 5, 1978

The Honorable Allen Beermann  
Secretary of State  
State of Nebraska  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. Secretary:

I am herewith delivering without my signature LB 1 and LB 2 and LR 1 passed by the Eighty-fifth Nebraska Legislature, First Special Session.

LR 1 proposes a constitutional amendment to be placed on the November ballot, and since the Governor has no role to play in proposing constitutional amendments, I have not affixed my signature. As you know, the Attorney General on two occasions advised the Legislature that LR 1 was not within the call of the Governor for the special session, and therefore they had no authority under the Constitution to propose this constitutional amendment.

LB 1 is my proposal in almost identical form as LB 899 which was soundly rejected by the Unicameral during the 1978 session. Unfortunately, the Legislature did not pass LB 1 with the emergency clause as I had specifically requested and outlined in my message to them at the beginning of the special session. Without the emergency clause the bill does not take effect for three months. By that date virtually all budgets of the local units of government will be adopted.

The basic thrust of the measure in both the regular and special session was to control spending budgets affecting property taxes this year. Because of the Legislature's failure to act to exercise spending restraints on property taxes now, I cannot in good conscience sign the measure and therefore will allow it to become law without my signature.

LB 2 is the so-called "local option" bill which purports to allow each taxpayer and each local taxing district to decide on the issue of a lid on government spending. The bill presents almost insurmountable roadblocks in the path of the citizenry who wish to establish spending limits on their local units of government. Those citizens wishing to control all of the taxing districts which extract property taxes would have to simultaneously circulate over a half dozen petitions to get an effective, comprehensive lid on property taxes. In my opinion, this burden was placed in LB 2 not by those who are sympathetic to the desires for spending limitations, but rather LB 2 was passed by those antagonistic to its spending limitations. Even though LB 2 is a weak sister when it comes to spending limitations, it does not have severe negative effects since the worst that can happen is that its provisions will not be utilized, and therefore I am also allowing the bill to become law without my signature.

The actions of most of the members of the Nebraska Unicameral during the special session would suggest that the intentions of most

legislators to retain these spending limitations during the 1979 session of the Legislature are questionable. Therefore, I can only reiterate my previous statement that the present initiative petition placing a 5% spending limitation in the Constitution is the only real hope for those Nebraskans who desire an effective, reasonable, comprehensive and continuing control on ever-increasing property taxes.

Yours truly,  
(Signed) J. James Exon  
Governor

JJE:fw

July 6, 1978

Clerk of the Legislature  
Eighty-fifth Legislature, First Special Session  
Nebraska Unicameral Legislature  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. Clerk:

Please be advised that Legislative Bill 1 has become law without the signature of the Governor.

Attached is my certification that Legislative Bill 1 remained with the Governor, and that the Governor failed to veto the bill and failed to sign the bill. Said bill has become law under the provisions as set forth in the Constitution.

Respectfully submitted,  
(Signed) ALLEN J. BEERMANN  
Secretary of State

Enclosure

**CERTIFICATE  
LEGISLATIVE BILL 1**

This bill having remained with the Governor, the Legislature having adjourned, the Governor having failed to sign said bill, the Governor having failed to return this bill to the Legislature during its session, it has thereby become a law.

Witness my hand this sixth day of July, 1978, A.D.

(Signed) ALLEN J. BEERMANN  
Secretary of State

(SEAL)

July 6, 1978

Clerk of the Legislature  
Eighty-fifth Legislature, First Special Session  
Nebraska Unicameral Legislature  
State Capitol Building  
Lincoln, Nebraska 68509

Dear Mr. Clerk:

Please be advised that Legislative Bill 2 has become law without the signature of the Governor.

Attached is my certification that Legislative Bill 2 remained with the Governor, and that the Governor failed to veto the bill and failed to sign the bill. Said bill has become law under the provisions as set forth in the Constitution.

Respectfully submitted,  
(Signed) ALLEN J. BEERMANN  
Secretary of State

Enclosure

### **CERTIFICATE LEGISLATIVE BILL 2**

This bill having remained with the Governor, the Legislature having adjourned, the Governor having failed to sign said bill, the Governor having failed to return this bill to the Legislature during its session, it has thereby become a law.

Witness my hand this sixth day of July, 1978, A.D.

(Signed) ALLEN J. BEERMANN  
Secretary of State

(SEAL)

### **CERTIFICATION**

I, Patrick J. O'Donnell, Clerk of the Legislature, hereby certify that the foregoing is a true and correct copy of the Legislative Journal of the Eighty-fifth Legislature, First Special Session of the State of



**AFTER ADJOURNMENT**

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Nebraska, convened and held in the City of Lincoln, State of Nebraska, June 8, 1978 to June 30, 1978.

(Signed) Patrick J. O'Donnell  
Clerk of the Legislature

July 7, 1978



## CHRONOLOGY OF BILLS

### EIGHTY-FIFTH LEGISLATURE FIRST SPECIAL SESSION 1978

#### LEGISLATIVE BILL 1 By Dworak, Keyes

June 8	Read first time.....	14
June 8	Referred to Committee on Revenue .....	23
June 8	Notice of hearing.....	30
June 21	Simon amendment printed.....	39
June 21	Placed on General File. Newell motion to recommit withdrawn .....	47
June 21	F. Lewis amendment printed .....	48
June 21	Newell letter to Attorney General printed .....	50
June 22	Simon, Rasmussen, Lamb and Kelly amendments lost. DeCamp, F. Lewis, Bereuter, Hefner-Marvel and Koch amendments adopted. Simon amendment withdrawn. Cullan explanation of vote.....	56
June 22	Goodrich amendments printed .....	60
June 22	Kelly amendments printed .....	68
June 22	Chambers motion to indefinitely postpone lost. Dworak objection to F. Lewis request to lay over amendments. Maresh amendment adopted. Koch amendment, as amended, lost ..	72
June 22	George amendment lost. Duis and Bereuter amendments adopted. Duis amendment reconsidered. Duis amendment withdrawn.....	75
June 22	Newell amendments printed.....	76
June 23	Koch, Warner and Kelly amendments lost. Advanced for review.....	82
June 26	Attorney General Opinion.....	87
June 26	Placed on Select File .....	89
June 26	Attorney General Opinion.....	103
June 26	Goodrich amendments withdrawn. Warner point of order. Chair challenged. Fowler amendment withdrawn. Fowler amendment adopted. Newell amendments withdrawn. Keyes amendment lost .....	107
June 26	Advanced for engrossment .....	109

June 27	Attorney General Opinion .....	115
June 27	Correctly engrossed .....	117
June 28	F. Lewis motion out of order .....	123
June 28	Attorney General Opinion .....	130
June 28	Attorney General Opinion .....	138
June 28	Returned to Select File for Dworak amendment .....	137
June 28	Dworak amendment adopted. Advanced for re-engrossment .....	138
June 28	Correctly re-engrossed .....	144
June 29	Warner motion to return to Select File withdrawn. F. Lewis motion to return to Select File lost .....	147
June 30	Attorney General Opinion .....	150
June 30	Attorney General Opinion .....	153
June 30	Attorney General Opinion .....	154
June 30	Rules suspended. Nichol motion to overrule Speaker's order lost. Kahle motion to return to Select File lost .....	165
June 30	Schmit motion to return to Select File lost. Warner motion to reconsider Schmit motion lost .....	166
June 30	Final Reading .....	167
June 30	DeCamp motion to reconsider lost .....	168
June 30	Schmit motion to reconsider prevailed. Final Reading .....	170
June 30	Correctly enrolled. President signed .....	171
June 30	Presented to Governor .....	173
July 7	Became law without signature .....	175
July 7	Certificate .....	177

### LEGISLATIVE BILL 2 By Warner

June 8	Read first time .....	15
June 8	Referred to Committee on Government, Military and Veterans Affairs .....	23
June 8	Notice of hearing .....	29
June 21	Placed on General File .....	35
June 21	Rasmussen request withdrawn. Committee amendment lost .....	39
June 21	Koch name added. Simon and Newell amendments lost. Advanced for review .....	41
June 22	Placed on Select File .....	53

## CHRONOLOGY OF BILLS

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June 22	Kelly amendments printed .....	62
June 22	Koch amendments printed .....	74
June 23	Kelly pending amendment lost. Koch amendments withdrawn. Advanced for engrossment.....	80
June 23	Warner amendment printed.....	85
June 23	Attorney General Opinion .....	87
June 26	Correctly engrossed .....	90
June 26	Replaced on Select File .....	109
June 26	Warner amendment adopted. Advanced for re-engrossment. Returned to Select File for Koch amendment .....	110
June 26	Koch amendment adopted. Advanced for re-engrossment. Returned to Select File for Warner amendment. Warner amendment adopted. Advanced for re-engrossment .....	111
June 26	Koch statement printed .....	112
June 27	Replaced on Select File .....	115
June 27	Advanced for engrossment. Correctly re-engrossed.....	117
June 28	Attorney General Opinion .....	130
June 28	Returned to Select File for Warner amendment .....	139
June 28	Warner amendment adopted. Advanced for re-engrossment .....	140
June 28	Correctly re-engrossed.....	144
June 30	Rules suspended. Nichol motion to overrule Speaker's order lost .....	165
June 30	Final Reading .....	169
June 30	Correctly enrolled. President signed .....	171
June 30	Presented to Governor .....	173
July 7	Became law without signature .....	175
July 7	Certificate .....	178

### LEGISLATIVE BILL 3 By F. Lewis

June 8	Read first time.....	15
June 8	Referred to Committee on Revenue .....	23
June 8	Notice of hearing.....	30
June 21	Indefinitely postponed. Newell motion to recommit withdrawn .....	47

**LEGISLATIVE BILL 4 By F. Lewis**

June 8	Read first time.....	15
June 8	Referred to Committee on Appropriations .....	23
June 8	Notice of hearing.....	29
June 22	Placed on General File.....	53
June 22	Kelly amendments printed .....	71
June 26	Attorney General Opinion .....	87
June 26	Attorney General Opinion .....	90
June 26	Kelly pending amendments lost .....	100
June 26	Kelly amendment lost. Warner amendment adopted .....	102
June 26	Advanced for review.....	103
June 26	Attorney General Opinion .....	105
June 26	Placed on Select File .....	109
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June 27	Correctly engrossed .....	117
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June 30	Mills motion to return to Select File lost. Final Reading .....	158

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June 21	Placed on General File. Newell motion to recommit withdrawn .....	47
June 22	Kelly amendment printed.....	71
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June 26	Kelly amendment lost .....	93
June 26	DeCamp amendments adopted. Murphy motion to overrule Chair lost .....	95
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June 28	Attorney General Opinion .....	136
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June 30	Attorney General Opinion.....	150
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June 26	Attorney General Opinion.....	87
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June 21	Indefinitely postponed.....	34

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June 21	Indefinitely postponed.....	34

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June 21	Indefinitely postponed.....	35

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June 8	Notice of hearing.....	30
June 21	Indefinitely postponed.....	34

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June 8	Read first time.....	20
June 8	Referred to Committee on Revenue.....	24
June 8	Notice of hearing.....	30
June 21	Indefinitely postponed.....	47
June 21	Newell motion to recommit withdrawn.....	47

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June 8	Read first time.....	20
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June 21	Advanced for Review.....	37
June 21	Placed on Select File.....	40
June 22	Advanced for engrossment.....	55
June 23	Correctly engrossed.....	78
June 26	Attorney General Opinion.....	87
June 28	Final Reading.....	123
June 28	Correctly enrolled. President signed.....	125
June 28	Maxey explanation of vote. Presented to Governor.....	127
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June 22	Kelly amendments printed.....	69
June 26	Attorney General Opinion.....	87
June 30	Indefinitely postponed.....	172



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June 22	Kelly amendments printed .....	69
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June 8	Notice of hearing.....	30
June 21	Indefinitely postponed.....	34



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- 6 Property taxation.
- 7 Taxation of owner-occupied dwellings, C.A.
- 8 1 per cent of actual value limitation on property taxes, C.A.
- 9 Prohibiting government use of public funds for lobbying purposes.
- 10 Limiting local mill levies to previous amount, C.A.
- 11 Procedures and elections for budget increases by political subdivisions.
- 15 7 per cent local spending lid, increases by population factor.
- 16 5 per cent budget increase limitation for political subdivisions, C.A.

**D. DWORAK**

- 1 Changes provisions relating to political subdivision budget adjustments.

**FOWLER**

- 15 7 per cent local spending lid, increases by population factor.

**KEYES**

- 1 Changes provisions relating to political subdivision budget adjustments.

**KOCH**

- 2 Local Option Tax Control Act.
- 15 7 per cent local spending lid, increases by population factor.

**F. LEWIS**

- 3 Average per capita budget figure for spending limitations.
- 4 State budget limitation.
- 5 Establishing budget priorities of political subdivisions for services.

**NEWELL**

- 15 7 per cent local spending lid, increases by population factor.

**NICHOL, AT REQUEST OF GOVERNOR**

- 12 Operative date change in a section of Criminal Code.

**REUTZEL**

- 15 7 per cent local spending lid, increases by population factor.

**SCHMIT**

- 15 7 per cent local spending lid, increases by population factor.

**WARNER**

- 2 Local Option Tax Control Act.  
6 Property taxation.

\*See also, Chronology of Bills, page 181.

# NEBRASKA STATE LEGISLATURE

## Eighty-Fifth Legislature, First Special Session

### Summary

Total Number of Bills Introduced.....16  
 Total Number of Resolutions Introduced .....26

The following table shows the final disposition of each Bill and Resolution.

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 12e

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 1        2        LR1CA

Failed on Final Reading, 1:  
 4

Indefinitely Postponed, 12:  
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 13        14CA        15        16CA

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